



**CITY OF ROCKLIN  
INFORMAL BID PACKAGE  
AND  
GENERAL CONDITIONS  
FOR THE**

**NIGHT RIDGE PARK PLAYGROUND  
REPLACEMENT**

**BID OPENING TUESDAY,  
FEBRUARY 24, 2026, 1:00 PM  
AT 3970 ROCKLIN ROAD  
ROCKLIN, CA**

**Parks & Recreation Department  
5460 5<sup>th</sup> Street  
Rocklin, CA 95677**

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## NOTICE TO CONTRACTORS

Notice is hereby given that the City Council of the City of Rocklin, California, will receive sealed Bids as follows:

<b>BID DATE / TIME:</b>	Until Tuesday, February 24, 2026 1:00PM (Local Time)
<b>SUBMIT BIDS TO:</b>	City Clerk's Office City of Rocklin 3970 Rocklin Road Rocklin, CA 95677
<b>FOR:</b>	Night Ridge Park Playground Replacement
<b>ESTIMATED CONSTRUCTION COST:</b>	N/A
<b>TOTAL CONTRACT TIME:</b>	60 Days
<b>CONTRACTOR'S CALIFORNIA LICENSE AND/OR CLASS REQUIRED</b>	Class A or B
<b>MANDATORY PRE-BID CONFERENCE DATE, TIME, AND LOCATION</b>	February 10, 2026, 10:00 AM Night Ridge Park 6164 Frost Ridge Way Rocklin, CA 95765

Notice is hereby further given that the Project is a public works project within the requirements of Division 2, Part 7, Chapter 1 of the California Labor Code, and that each Bidder and all Subcontractors are required to be registered pursuant to Labor Code section 1725.5 at the time of bidding. ***Failure of the Bidder to be registered at the time of bidding shall render the Bid non-responsive and unavailable for award. A Subcontractor who is unregistered will not be permitted to work on the Project. If any Subcontractor required to be listed in the Bid is unregistered, that Subcontractor will be required to be substituted with a registered Subcontractor at no additional cost to the City and/or the listing of an unregistered Subcontractor may render the bid nonresponsive. Bidders shall provide the registration numbers for all listed Subcontractors within 24 hours of bid opening and registration numbers of all Subcontractors who are not required to be listed not later than 24 hours before they are to start work on the Project.***

City affirmatively identifies this Project as a "public work" as that term is defined by Labor Code Section 1720, and the project is, therefore, subject to prevailing wages under Labor Code Section 1771. Contractor and its Subcontractors shall fully comply with all the provisions of the California Labor Code governing the performance of public works contracts including, but not limited to, payment of prevailing wages, limitations on time worked, compliance with apprentice requirements, maintenance of payroll records, posting of wages at the job site and prohibitions against discrimination. Copies of such prevailing rate of per diem wages are available upon request at the office of the City Clerk at 3970 Rocklin Road, Rocklin, CA 95677 or on the internet at <http://www.dir.ca.gov/OPRL/PWD>.

Submit Bids with the subject of "**Night Ridge Park Playground Replacement**" ("Project") or by hand delivery or mail to 3970 Rocklin Rd., Rocklin, Ca 95677. The envelope should clearly state the project name "**Night Ridge Park Playground Replacement**" and include your company name and address on the envelope.

If there is a mandatory pre-bid conference meeting identified above, during the pre-bid conference representatives of City will discuss the Contract Documents, bid submission requirements, site constraints, order of work and other items specific to this project. A project walk-through may follow after the pre-bid conference meeting. A sign-in sheet will be available up until commencement of the pre-bid conference meeting only. Attendance at the entire pre-bid meeting and project walk-through, if scheduled, is mandatory for bidding. Bids received from Bidders who did not sign the sign-in sheet and attend the meeting and project walk-through will be returned to the Bidder unopened. Attendance by Subcontractors is not mandatory, but all interested prospective Subcontractors are encouraged to attend. The City will transmit Addenda to all prospective Bidders who have purchased full sets of Contract Documents, as the City considers necessary in response to questions raised at the meeting and walk-through. Addenda also will be posted on the City's website. Oral statements not confirmed by Addenda may not be relied upon and are not binding or legally effective. Except for mandatory walk-through, no other access to the project site will be granted pre-bid without the City's prior approval, which will require advanced notice and a scheduled appointment. During all site visits the Bidder must be accompanied full time by an authorized representative of the City. No exceptions to this requirement.

Contract Documents may be purchased at the City of Rocklin Park and Recreation Office, located at 5460 5<sup>th</sup> Street, Rocklin, CA 95677, telephone (916) 625-5200 between the hours of 8:00 a.m. - 4:30 p.m. Monday through Friday. The non-refundable cost for each set is \$25.00. Alternatively, **Contract Documents may be downloaded at no charge from the City of Rocklin's website at [www.rocklin.ca.us/DownloadBids](http://www.rocklin.ca.us/DownloadBids)**

Complete sets of Contract Documents must be used in preparing Bids. The City does not assume responsibility for errors or misinterpretations resulting from the use of incomplete sets of Contract Documents. The City, in making copies of the Contract Documents available on the above terms, does so only for the purpose of obtaining Bids for the Work and does not confer license or grant for any other use.

Written questions regarding this Invitation for Bids should be directed to Tim O'Connor, Parks Supervisor by email at [tim.oconnor@rocklin.ca.us](mailto:tim.oconnor@rocklin.ca.us) no later than Wednesday, February 18<sup>th</sup> at 3:00 PM. All emails shall require verification of receipt by sender in accordance with the Instructions to Bidders.

Bidders shall develop and submit Bids at their own expense. The City will not reimburse any costs associated with the development and submittal of any and all Bids.

Each Bid must be submitted on the Bid Forms provided in the Contract Documents. The Bid must be submitted no later than the time and date prescribed. The clock located on the City Computer is considered the official local time. Bid submissions received after the designated time will not be opened and will be returned to the Bidder unopened. Telephones will not be available to Bidders at the City's offices for the preparation of Bids.

Each Bid must also be accompanied by security in the form of a Bidder's Bond issued by a corporate surety, a certified check, or cashier's check payable to the City of Rocklin, or cash. The

amount of the bid security must be not less than ten percent (10%) of the Total Bid Price, consisting of the total base bid plus the total additive bid alternates.

The successful Bidder may be required to execute a Material and Labor Payment Bond and Performance Bond, issued by a corporate surety, in conformance with the requirements set forth in the Contract Documents, each for not less than one hundred percent (100%) of the Contract Price. Whether these Bonds will be required will depend on the Bid Price (see the City of Rocklin's General Informal Public Works Project bonding requirements included with the Bid Form).

If the lowest responsive, responsible bidder fails or refuses to execute any Contract for the Project, the City may, in its discretion, award the Contract to the second lowest, responsive responsible bidder. If the second lowest, responsible bidder fails or refuses to execute any Contract for the Project, the City may, in its discretion, award that and all other Contracts for the Project to the third lowest, responsive responsible bidder. Any Bidder to whom any Contract for the Project is awarded who fails to execute the Contract and file acceptable bonds and insurance certificates as required in the Contract Documents will have its Bid Guarantee forfeited.

The City reserves the right to award the Contract, to reject any or all Bids, to waive non-material and inconsequential irregularities in any Bid, and to reject nonconforming, nonresponsive, non-responsible, or conditional Bids.

## INFORMAL BID FORM

### Night Ridge Park Playground Replacement

The City is seeking informal bids to remove the existing play structure and install a replacement play structure (furnished by the City). The project will consist of:

- Demolition and disposal of existing play structure
- Equipment installation to plan per 25\_7727\_NightRidgePark\_004 DIM Plan specification
- Re-installation of EWWF and Top Off
- CPSI Inspections for both structures
- Bonding Fees

The scope of work is described more fully in Exhibit A to Construction Agreement for Construction.

Total shall include all tools, labor and materials needed to complete the project including traffic control.

Lump Sum Cost: \_\_\_\_\_

### CITY OF ROCKLIN'S GENERAL INFORMAL PUBLIC WORKS PROJECT REQUIREMENTS:

#### 1. BOND REQUIREMENTS:

- a. If project is under \$10,000.00 – No Bonds required
- b. If project is between \$10,000 and \$24,999.99 – Only a Performance Bond is required.
- c. For projects \$25,000.00 and above -Performance and Payment Bonds required for all informal Public Works Projects.
- d. If necessary, please include the bond costs in your total bid
- e. All bond signatures must be notarized (i.e. both the contractor signature and surety signature must be notarized)

#### 2. GENERAL INSURANCE REQUIREMENTS (See Attached Contract for details):

- a. Commercial General Liability - \$2 Million per Occurrence and \$4 Million Aggregate
  - i. Note: Umbrella can be used to cover the minimums
- b. Auto – \$1 Million
- c. Workers Compensation - \$1 Million

If awarded the Contract, the undersigned shall execute said Contract and furnish the any necessary Performance and Payment Bonds and insurance within ten (10) calendar days after the Notice of Award of said Contract and begin work as set forth in the written Notice to Proceed from the City of Rocklin (hereinafter referred to as the "City") to Contractor.

The Contractor shall initial below that it has received the appropriate addenda and has incorporated the addenda into its Bid.

**Addenda Received and Acknowledged**

No. 1 \_\_\_\_\_  
No. 2 \_\_\_\_\_  
No. 3 \_\_\_\_\_

**BID DEPOSIT ENCLOSED IN THE FOLLOWING FORM:**

\$ \_\_\_\_\_ not less than ten percent (10%) of amount Bid,  
plus additive alternates.

- CERTIFIED CHECK
- MONEY ORDER
- CASHIER'S CHECK
- BID BOND

**AGREEMENT**

It is understood and agreed that if written notice of the City's acceptance of this Bid is mailed, emailed, or delivered to the undersigned Bidder after the opening of the bid, and within the time set in the Notice to Contractors or at any time thereafter before this Bid is withdrawn, the undersigned Bidder will execute and deliver to the City the Agreement for Construction in accordance with the Bid as accepted, within ten (10) days after receipt of notification of award, and that the Work under the Contract shall be commenced by the undersigned Bidder, if awarded the Contract, on the date to be stated in a Notice to Proceed and shall be completed in the time specified in the Contract Documents. In the event the Bidder to whom an award is made fails or refuses to execute the Agreement for Construction within ten (10) days from the date of receiving notification that it is the Bidder to whom the Contract is awarded, the City may declare the Bidder's bid deposit or bond forfeited as damages caused by the failure of the Bidder to enter into the Agreement for Construction.

The undersigned Bidder agrees that the information and representations provided herein are made under penalty of perjury.

NOTE: If Bidder is a corporation, the legal name of the corporation shall be set forth below, together with the signatures of authorized officers or agents and the document shall bear the corporate seal; if Bidder is a partnership, the true name of the firm shall be

set forth below together with the signature of the partner or partners authorized to sign contracts on behalf of the partnership; and if Bidder is an individual, his/her signature shall be placed below.

NAME OF BIDDER:

---

***Affix Corporate  
Seal Here***

BY: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Type/Print Name

\_\_\_\_\_  
Title

DATE:\_\_\_\_\_

Valid Contractor's License No.:\_\_\_\_\_

Expiration date:\_\_\_\_\_

Public Works Registration No.\_\_\_\_\_

## ATTACHMENT A

### BID BOND

We, \_\_\_\_\_ as principal, and \_\_\_\_\_, as Surety are held and firmly bound unto the City of Rocklin, hereafter referred to as "Obligee", in the penal sum of ten percent (10%) of the total amount of the Bid of the Principal submitted to the Obligee for the Work described below, for the payment of which sum we hold and firmly bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally,

#### THE CONDITION OF THIS OBLIGATION IS SUCH, THAT:

WHEREAS, the Principal is submitting a Bid to the Obligee, for \_\_\_\_\_

*(Copy here the exact description of work, including location, as it appears on the Bid)*  
for which Bids are to be opened at Rocklin, CA on \_\_\_\_\_  
*(Insert date of Bid opening)*

NOW, THEREFORE, if the Principal is awarded the Contract and after the prescribed forms are presented to him for signature, enters into a written contract, in the prescribed form, in accordance with the Bid, and files two bonds with the Obligee, one to guarantee faithful performance of the contract and the other to guarantee payment for labor and materials as provided by law, then this obligation shall be null and void; otherwise, it shall remain in full force.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time for award of a contract after opening of Bids, alteration, addition, modification, or supplement to the terms of the Notice to Contractors/Invitation for Bids, the Work to be performed thereunder, or the Contract Documents, shall in any way affect the Surety's obligations under this Bond, and the Surety does hereby waive notice of any such change, extension of time, alteration, addition, modification or supplement to the terms of said Notice to Contractors/Invitation for Bids, the Work to be performed thereunder, or the Contract Documents.

In the event suit is brought upon this bond by the Obligee and judgment is recovered, the Surety shall pay all costs incurred by the Obligee in such suit, including reasonable attorneys' fees to be fixed by the court.

Dated: \_\_\_\_\_, 20\_\_\_\_

Principal: \_\_\_\_\_

By: \_\_\_\_\_

Surety: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Attorney in Fact: \_\_\_\_\_

**Attach Attorney-In-Fact Certificate, Corporate Seal and Surety Seal)**

**NOTICE:**

**A CERTIFICATE OF ACKNOWLEDGMENT IN ACCORDANCE WITH THE PROVISIONS OF CIVIL CODE SECTION 1189 MUST BE ATTACHED FOR EACH PERSON EXECUTING THIS AGREEMENT ON BEHALF OF BIDDER AND SURETY.**

**ATTACHMENT B**

**SUBCONTRACTOR LISTING FORM**

LIST OF SUBCONTRACTORS FOR \_\_\_\_\_  
(BIDDER)

## PROJECT:

Pursuant to the provisions of Sections 4100 to 4114 inclusive, of the California Public Contract Code, and as set forth in Instructions to Bidders, and the General Conditions, the above named Contractor hereby designates below the names, contractor license numbers, and locations of the place of business of each Subcontractor. Please check one of the boxes and sign below:

\_\_\_\_\_ We are not using any Subcontractors.

All of our Subcontractors are performing at least 1/2 of 1% of the Work listed below, including for additive Alternates, if any.

Signed

***Bidders shall provide the registration numbers for all listed Subcontractors within 24 hours of bid opening and registration numbers of all Subcontractors who are not required to be listed not later than 24 hours before they are to start work on the Project.***

**ATTACHMENT C**  
**NONCOLLUSION AFFIDAVIT**

The undersigned declares:

I am the \_\_\_\_\_ [Title] of \_\_\_\_\_, the party making the foregoing Bid.

The Bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The Bid is genuine and not collusive or sham. The Bidder has not directly or indirectly induced or solicited any other Bidder to put in a false or sham Bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any Bidder or anyone else to put in a sham bid or to refrain from bidding. The Bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of Bidder or any other Bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other Bidder. All statements contained in the Bid are true. The Bidder has not, directly or indirectly, submitted its bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham Bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a Bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the Bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on \_\_\_\_\_ [date], at \_\_\_\_\_ [city], \_\_\_\_\_ [state].

---

(Name of Bidder)

---

(Signature)

---

(Title)

(If Bidder is a partnership or a joint venture, this declaration must be signed by every member of the partnership or venture. Print as many forms as needed and submit.)

(If Bidder [including any partner or venturer of a partnership or joint venture] is a corporation, this declaration must be signed by the Chairman, President, or Vice President and by the Secretary, Assistant Secretary, Chief Financial Officer, or Assistant Treasurer. Print as many forms as needed and submit.)

## ATTACHMENT D

### CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT OR SUSPENSION

Bidder hereby certifies, to the best of its knowledge and belief, except as expressly disclosed on this Certificate, that:

The Bidder and/or any of its Principals:

1. Are not presently debarred, suspended, proposed for debarment or suspension, or declared ineligible for award of the contract by any Federal, State, or local agency.
2. Have not, within a three-year period preceding this Bid, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property.
3. Are not presently indicted for, or otherwise criminally or civilly charged by a government entity with, commission of any of the offenses enumerated in Item 2. above.
4. The Bidder has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal, State, or local agency.

"Principals," for the purposes of this certification, means: officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

Bidder shall provide immediate written notice to the City if, at any time prior to contract award, Bidder learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

This Certification is a material representation of fact upon which reliance will be placed when making the award, if and when made. If it is later determined that Bidder knowingly rendered an erroneous certification, in addition to other remedies available to the City, the City may terminate the Contract resulting from this solicitation for default.

BIDDER: \_\_\_\_\_ Date \_\_\_\_\_

BY: \_\_\_\_\_  
Signature \_\_\_\_\_

\_\_\_\_\_  
Type/Print Name

\_\_\_\_\_  
Title

## **EXCEPTIONS TO CERTIFICATION**

If Bidder has any exceptions to the Certification set forth above, state the exception and an explanation of the circumstances:

BIDDER: \_\_\_\_\_ Date \_\_\_\_\_

BY: \_\_\_\_\_

---

**Signature**

---

Type/Print Name

---

**Title**

**ATTACHMENT E**  
**CONSTRUCTION AGREEMENT**

**THIS AGREEMENT**, dated for identification as of \_\_\_\_\_, 2026, is between the **CITY OF ROCKLIN**, a municipal corporation, (hereinafter called "City"), and \_\_\_\_\_, a \_\_\_\_\_ (hereinafter called "Contractor").

The parties hereto mutually agree to the terms and condition set forth herein.

**I. CONTRACT DOCUMENTS**

- A. The Contract Documents referred to herein are incorporated herein by reference as if set forth in full in this Agreement.
- B. Work called for in any one Contract Document and not mentioned in another is to be performed and executed as if mentioned in all Contract Documents. The table of contents, titles and headings contained herein and in said documents are solely to facilitate reference to various provisions of the Contract Documents and in no way affect or limit the interpretations of the provisions to which they refer.
- C. The Contract Documents shall include this Agreement, Exhibit A (Scope of Work), Performance Bond, Payment Bond, Worker's Compensation Insurance Certification, Guarantee Form, Exhibit B (Labor and Prevailing Wage Compliance), General Conditions, Technical Specifications (Divisions 2 through 16), Permits from other agencies as may be required by law, City of Rocklin Construction Specifications, Improvement Standards and Standard Drawings, Caltrans Standard Plans and Specifications as applicable, Standard Plans and Specifications, Standard Forms, Supplemental Drawings, all required bonds, Exhibits, the Contract Schedule, Storm Water Pollution Prevention Plan (whether prepared by the City or the Contractor) and any and all supplemental agreements amending or extending the Work contemplated and which may be required to complete the Work in an acceptable manner. Supplemental agreements are written agreements covering alterations, amendments or extensions to the Contract Documents and include Change Orders, Construction Change Directives, Field Directives, Field Orders and Supplemental Drawings.
- D. If applicable to this Agreement's Scope of Work, the General Conditions shall mean and refer to the current General Conditions of the City of Rocklin, which are incorporated herein by this reference as if set forth herein.

**II. DEFINITIONS**

Unless otherwise specifically provided herein, all works and phrases defined in the General Conditions shall have the same meaning and intent in this Agreement.

**III. AGREEMENT CONTROLS**

In the event of a conflict between the terms and conditions as set forth in this Agreement and the terms and conditions set forth in other Contract Documents, the terms and conditions set forth in this Agreement shall prevail.

**IV. SCOPE OF CONTRACT**

Contractor agrees to furnish all tools, equipment, apparatus, facilities, labor and material and transportation necessary to perform and complete in a good and workman like manner to

the satisfaction of City, all the work required for the Contract for the Project entitled: (INSERT PROJECT NAME)

## **V. CONTRACT AMOUNT AND PAYMENTS**

City agrees to pay and Contractor agrees to accept, in full payment for the above work, **DOLLARS (\$ )**, as the stipulated sum price which Contractor bid in its Bid Form, subject to additions and deductions by Change Order(s) as provided in the Contract Documents.

## **VI. PROGRESS AND FINAL PAYMENTS**

Progress and final payments shall be in accordance with the billing and payment information below in the General Conditions.

## **VII. RETENTION OF SUMS CHARGED AGAINST CONTRACTOR**

When, under the provisions of this contract, City shall charge any sum of money against Contractor, City shall deduct and retain the amount of such charge from the amount of the next succeeding progress estimate, or from any other moneys due or that may become due to the Contractor from City. If, on completion or termination of the Contract, sums due contractor are insufficient to pay City's charges against him, City shall have the right to recover the balance from Contractor or his sureties.

## **VIII. TIME OF COMPLETION**

- A. The entire Work shall be brought to completion in the manner and within \_\_\_\_\_, commencing on the date of issuance of the Notice to Proceed.
- B. Failure to complete the Work by the completion date and in the manner provided for by the Contract Documents shall subject Contractor to liquidated damages as hereinafter provided in this Agreement. Time is of the essence in these Contract Documents.

## **IX. INSURANCE**

Contractor shall maintain in full force and effect at all times during the term of the Agreement, at its sole expense, policies of insurance in accordance with the General Conditions.

## **X. NO WAIVER OF REMEDIES**

- A. Neither the inspection by City or its agents, nor any order or certificate for the payment of money, nor any payment for, nor acceptance of the whole or any part of the Work by City, nor any extensions of time, nor any position taken by City or its agents shall operate as a waiver of any provision of this Agreement or of any power herein reserved to City or any right to damages herein provided, nor shall any waiver of any breach of the Agreement be held to be a waiver of any other or subsequent breach.
- B. All remedies provided in this Agreement shall be taken and construed as cumulative; that is, in addition to each and every other remedy herein provided, and City shall have any and all equitable and legal remedies which it would in any case have.

## **XI. DETERMINATION OF DAMAGES**

- A. The actual fact of the occurrences of damages and the actual amount of the damages which City would suffer if the Work were not completed within the specified times set forth are dependent upon many circumstances and conditions which could prevail in

various combinations, and, from the nature of the case, it is impracticable and extremely difficult to fix the actual damages.

- B. Damages which City would suffer in the event of delay include loss of the use of the Project, and, in addition, expenses of prolonged employment of an architectural and engineering staff; costs of administration, inspection, and supervision; and the loss suffered by the public within the City of Rocklin by reasons of the delay in the completion of the Project to serve the public at the earliest possible time.
- C. Accordingly, the parties hereto agree, and by execution of this Agreement, Contractor acknowledges that it understands, has ascertained and agrees, that the amounts set forth herein as liquidated damages shall be presumed to be that amount of damages sustained by the failure of Contractor to complete the entire work within the times specified.

## **XII. RESERVED (INTENTIONALLY LEFT BLANK)**

## **XII. TERMINATION AFTER ALLOTTED WORKING OR CALENDAR DAYS**

- A. In addition to any rights it may have, City may terminate this Contract or the Contractor's right to proceed at any time after the allotted number of Working or Calendar Days as adjusted by any extensions of time for excusable delays that may have been granted.
- B. Upon such termination Contractor any compensation shall be in accordance with Section 5-23 of the General Conditions, and it shall be liable to City for liquidated damages for all periods of time beyond such termination date until the Work is completed.

## **XIII. CONTRACTOR BANKRUPT**

- A. If Contractor should commence any proceeding under the Bankruptcy Act, or if contractor be adjudged a bankrupt, or if Contractor should make any assignment for the benefit of creditors, or if a receiver should be appointed on account of Contractor's insolvency, then the City Council may, without prejudice to any other right or remedy, terminate the Contract and complete the work by giving notice to Contractor and his surety according to the provisions of Article 5 of the General Conditions.
- B. City shall have the right to complete, or cause completion of the work, all as specified in the General Conditions.

## **XIV. PERFORMANCE AND PAYMENT BONDS**

- A. The Contractor may, depending on the Contract Price, be required before beginning said work, to file two bonds with the City, each made payable to the City. These bonds shall be issued by a Surety Company authorized to do business in the State of California, and shall be maintained during the entire life of the Contract at the expense of the Contractor.
  - 1. One bond shall be in the amount of one hundred percent (100%) of the Contract and shall guarantee the Faithful Performance of the Contract.
  - 2. The second bond shall be the Payment Bond required by Part 4, Title 15, Chapter 7, Division Three of the Civil Code of the State of California and shall be in the amount of one hundred percent (100%) of the Contract if the total amount of the contract is over \$25,000.
- B. Any alteration or alterations made in any provision of this Contract shall not operate to release any surety from liability on any bond required hereunder and the consent to make

such alterations is hereby given, and any surety on said bonds hereby waives the provisions of Section 2819 of the Civil Code.

C. Bonds shall only be accepted from an “*Admitted surety insurer*”, which means an insurer to which the Insurance Commissioner has issued a certificate of authority to transact surety insurance in this state. **Contractor must submit all of the following with the bonds:**

- The original, or a certified copy, of the unrevoked appointment, power of attorney, bylaws or other instrument entitling or authorizing the person who executed the bond to do so.

#### **XV. SUBSTITUTION OF SECURITIES OF MONEY WITHHELD**

If retention is withheld on this Contract, then the following applies:

- A. At any time prior to final payment, Contractor may request substitution of securities for any money withheld by the City to ensure performance of the Contract.
- B. At the expense of the Contractor, securities equivalent to the money withheld may be deposited with the City or with an approved financial institution as escrow agent according to a separate Security Agreement.
- C. Securities eligible for substitution shall include those listed in Section 16430 of the Government Code or bank or savings and loan certificates of deposit. A fee set by the City Council shall be charged for such substitution.

#### **XVI. LABOR CODE AND PREVAILING WAGE COMPLIANCE**

- A. The City affirmatively identifies this Project as a “public work” as that term is defined by Labor Code section 1720, and the project is, therefore, subject to prevailing wages under Labor Code section 1771.
- B. Contractor and its subcontractors shall fully comply with all the provisions of the California Labor Code governing the performance of public works contracts including, but not limited to, payment of prevailing wages, limitations on time worked, compliance with apprentice requirements, maintenance of payroll records, posting of wages at job site and prohibitions against discrimination (Exhibit B).

#### **XVII. ASSIGNMENT OF ANTITRUST ACTIONS**

The following provision is included in this agreement pursuant to California Public Contract Code §7103.5.

**"IN ENTERING INTO A PUBLIC WORKS CONTRACT OR A SUBCONTRACT TO SUPPLY GOODS, SERVICES, OR MATERIALS PURSUANT TO A PUBLIC WORKS CONTRACT, THE CONTRACTOR OR SUBCONTRACTOR OFFERS AND AGREES TO ASSIGNING TO THE AWARDING BODY ALL RIGHTS, TITLE, AND INTEREST IN AND TO ALL CAUSES OF ACTION IT MAY HAVE UNDER SECTION 4 OF THE CLAYTON ACT (15 U.S.C. SEC. 15) OR UNDER THE CARTWRIGHT ACT (CHAPTER 2 (COMMENCING WITH SECTION 16700) OF PART 2 OF DIVISION 7 OF THE BUSINESS AND PROFESSIONS CODE), ARISING FROM PURCHASES OF GOODS, SERVICES, OR MATERIALS PURSUANT TO THE PUBLIC WORKS CONTRACT OR THE SUBCONTRACT. THIS ASSIGNMENT SHALL BE MADE AND BECOME**

**EFFECTIVE AT THE TIME THE AWARDING BODY TENDERS FINAL PAYMENT TO THE CONTRACTOR, WITHOUT FURTHER ACKNOWLEDGMENT BY THE PARTIES."**

**XVIII. ASSIGNMENT**

Neither this Agreement nor any rights herein of Contractor shall be assigned without the written consent of City first obtained.

**XIX. NO THIRD PARTY BENEFICIARIES**

This Agreement is entered into solely between the City and Contractor. There are no third party beneficiaries, intended, unintended, or otherwise to this Agreement.

**XX. INDEMNIFICATION.**

- A. To the fullest extent permitted by law, Contractor shall indemnify and hold harmless City, its elected officials, officers, employees, agents, and volunteers against all claims, suits, actions, costs, expenses (including, but not limited to, reasonable attorney's fees of the City Attorney and counsel retained by City, expert fees, litigation costs, and investigation costs), damages, judgments, or decrees arising from the work or the provision of services undertaken pursuant to this agreement by Contractor, or by any of Contractor's subcontractors, any person employed under Contractor, or under any subcontractor, or in any capacity, except when the injury or loss is caused by the sole negligence or intentional wrongdoing of City. Contractor shall also, at Contractor's own expense, defend the City, its elected officials, officers, employees, agents, and volunteers, against any claim, suit, action, or proceeding brought against City, its elected officials, officers, employees, agents, and volunteers, arising from the work or the provision of services undertaken pursuant to this agreement by Contractor, or any of Contractor's subcontractors, any person employed under Contractor, or under any Subcontractor, or in any capacity. Contractor shall also defend and indemnify City for any adverse determination made by the Internal Revenue Service or the State Franchise Tax Board and/or any other taxing or regulatory agency and shall defend, indemnify, and hold harmless City with respect to Contractor's "independent contractor" status that would establish a liability on City for failure to make social security deductions or contributions or income tax withholding payments, or any other legally mandated payment. The provisions of this paragraph are intended to be interpreted as broadly as permitted by applicable law. This provision shall survive the termination, expiration, or cancellation of this agreement.
- B. The indemnification provisions are independent of, and shall not in any way be limited by, Contractor's insurance coverage or lack of coverage, or by the insurance requirements of this agreement. City acknowledgement or approval of Contractor's evidence of insurance coverage required by this agreement does not in any way relieve Contractor from its obligations under this Section.

**////SIGNATURE PAGE FOLLOWS////**

**IN WITNESS WHEREOF**, the parties hereto have signed the Agreement on the date set forth opposite their names.

**CONTRACTOR:**

**(California Corporations: must be signed by company's CEO, President, or Vice President as well as the Secretary or CFO.)**

---

Date

---

Tax I.D. Number

---

Signature

---

Signature

---

Print Name

---

Print Name

---

Title

---

Title

**CITY OF ROCKLIN, A Municipal Corporation:**

---

Aly Zimmermann, City Manager

APPROVED AS TO FORM:

---

Matthew McOmber, City Attorney

ATTEST:

---

Avinta Singh, City Clerk

## EXHIBIT A

### SCOPE OF WORK

#### Playground Installation Scope of Work

Project: Night Ridge Park Playground Replacement

Location: 6164 Frost Ridge Way, Rocklin, CA 95765

Owner: City of Rocklin

Quote Reference: Q-12393 (Revision 10-16-25)

The Project must be completed no more than 60 days in accordance with the Time of Completion requirements in this Contract.

#### 1. General Overview

The Contractor shall furnish labor, equipment, and services necessary to complete the full removal of the existing playground and the complete installation of new playground equipment for two age groups (2-5 and 5-12) in accordance with the approved layout plan 25\_7727\_NightRidgePark\_004 DIM (Exhibit A - Attachment A).

#### 2. Materials

The City of Rocklin will purchase the playground equipment from

Miracle Playsystems, Inc.  
2443 Fillmore St. #380-2302  
San Francisco, Ca 94115

Contractor will be responsible for relocating the Playground equipment currently being stored at the City Corporation Yard, 4081 Alvis Ct. Rocklin CA. to the project site (address above).

#### 3. Scope of Work – Contractor Responsibilities

##### 3.1 Prevailing Wage Labor

All labor performed under this contract shall be paid no less than the prevailing wage rates established by the California Department of Industrial Relations for Placer County.

Contractor shall be responsible for all certified payroll reporting, compliance monitoring, and any associated penalties.

##### 3.2 Pre-Construction

Contractor shall call in a USA (Underground Service Alert) ticket a minimum of 72 hours (3 working days) prior to any excavation or digging on site and shall maintain a current ticket for the duration of the project.

### **3.3 Demolition & Disposal**

Remove and dispose of existing structures that are indicated for removal. The playground equipment to be removed becomes the property of the Contractor.

### **3.4 Temporary Site Security**

Furnish, install, and later remove temporary chain-link security fencing around the construction zone for the duration of the project.

### **3.5 Offloading & Staging**

Offload all equipment and materials at the job site and stage within the secured construction area.

### **3.6 Equipment Installation**

Full installation of all playground structures in locations and orientations shown on approved layout plan 25\_7727\_NightRidgePark\_003 DIM.

Installation shall be performed in accordance with manufacturer guidelines, ASTM F1487, CPSC safety standards, and ADA accessibility requirements. All footings, anchoring, assembly, alignment, and torque verification included.

### **3.7 Engineered Wood Fiber (EWF) Surfacing**

Re-installation and top-off of existing engineered wood fiber safety surfacing to restore a minimum 12" compacted depth (or greater where required by critical fall height) throughout all use zones.

Raking, grading, and compaction to provide a smooth, level, accessible surface.

### **3.8 Certified Playground Safety Inspector (CPSI) Inspection**

Two (2) post-installation safety compliance audits by a NRPA-certified CPSI (one per age-specific structure).

Written inspection reports provided to Owner.

### **3.9 Performance & Payment Bond**

Contractor shall provide a 100% Performance and Payment Bond.

## Night Ridge Park

Rocklin, CA

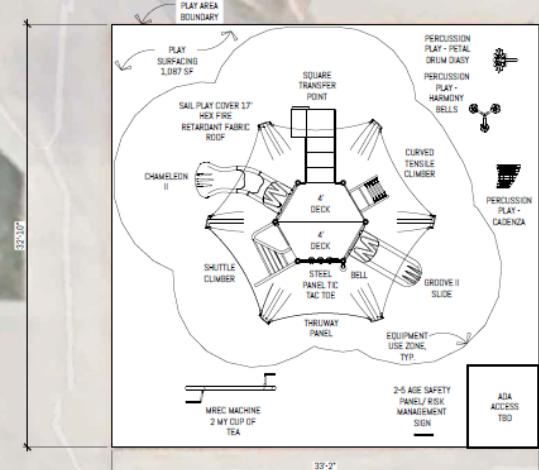
Prepared for: City of Rocklin



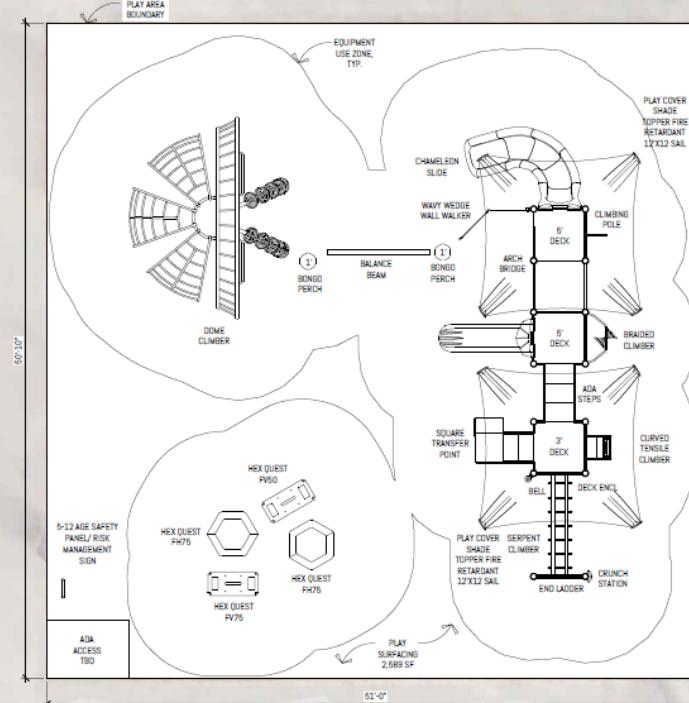
Creating Fun Play Environments to Enrich Communities



A blue circular icon with a white wheelchair symbol inside, followed by the text "ADA Compliant" in a blue sans-serif font.



PLAY AREA - AGE APPROPRIATE: 2-5 YEARS	CAPACITY: 30-35 CHILDREN
ELEVATED PLAY ACTIVITIES: 0	REVD: 0
ELEVATED PLAY ACTIVITIES ACCESSIBLE BY TRANSFER:	5 REVD: 3
ELEVATED PLAY ACTIVITIES ACCESSIBLE BY RAMP:	0 REVD: 0
GROUND LEVEL ACTIVITY TYPE:	3 REVD: 2
GROUND LEVEL ACTIVITY QUANTITY:	3 REVD: 0
NOTES:	
1. USE ZONES SURFACE OF PLAYGROUND COMPLIES WITH ASTM F2192-99.	
2. GROUND SURFACING COMPLIES WITH ASTM F1913-99.	
3. FORTRESS SURFACING COMPLIES WITH ASTM F1479-98, CRITICAL FALL HEIGHT: 4'-0".	
4. THIS PLAY AREA MEETS CBC SECTION 110-8.	DRAWN BY: JPD



PLAY AREA - AGE APPROPRIATE 0-12 YEARS	CAPACITY 35-40 CHILDREN
ELEVATED PLAY ACTIVITIES (TOTAL)	7
ELEVATED PLAY ACTIVITIES ACCESSIBLE BY TRANSFER	7 REQ'D 4
ELEVATED PLAY ACTIVITIES ACCESSIBLE BY RAMP	0 REQ'D 0
GROUND LEVEL ACTIVITY DENSITY	8 REQ'D 2
GROUND LEVEL ACTIVITY DENSITY	8 REQ'D 2
NOTES:	
1. THE ZONE FINISH SURFACE OF PLAYGROUND COMPLIES WITH ASTM F1292-99.	
2. THE SURFACE COMPLIES WITH ASTM F1293-99.	
3. PLAYGROUND EQUIPMENT SHALL COMPLY WITH ASTM F1487-98, CRITICAL FALL HEIGHT 4'-0".	
4. THIS PLAY AREA MEETS CEC SECTION 11B-1000.	SITE AREA SF 2,569 LBF 201-000 DRAWN BY: JPO

## NIGHT RIDGE PARK

ROCKLIN, CA

PERIMETER:	PER PLAN	VERSION	003
SITE AREA:	PER PLAN	DATE:	09/05/2025
MAX FALL HEIGHT:	PER PLAN	DRAWN BY:	JPD
DESIGN CONCEPT		FILE: 25_7727_NIGHTRIDGE PARK_003.DWG	



ALL DRAWINGS ARE SUBJECT TO CHANGE AND SHOULD BE REVIEWED BEFORE FINAL SALE.  
ALL SITE DIMENSIONS WILL NEED TO BE VERIFIED PRIOR TO SALE AND INSTALLATION.



Color Used In Rendering



Dark Gray  
Decks



Orange



Plum



Teal

Colors shown in rendering are for illustrative purposes only. Actual color and pattern may vary slightly.

09/22/2025  
25\_7727\_NightRidgePark\_003

Creating Fun Play Environments to Enrich Communities





Colors shown in rendering are for illustrative purposes only. Actual color and pattern may vary slightly.

09/22/2025  
25\_7727\_NightRidgePark\_003

Creating Fun Play Environments to Enrich Communities





Colors shown in rendering are for illustrative purposes only. Actual color and pattern may vary slightly.

09/22/2025  
25\_7727\_NightRidgePark\_003

Creating Fun Play Environments to Enrich Communities





Colors shown in rendering are for illustrative purposes only. Actual color and pattern may vary slightly.

## EXHIBIT B

### LABOR AND PREVAILING WAGE COMPLIANCE

#### 1. PREVAILING WAGE

A. The Work contemplated herein constitutes a public work within the meaning of Labor Code sections 1720 and 1771. It shall be mandatory upon the Contractor and upon any Subcontractor, to pay not less than the said specified prevailing rates of wages to all workers employed by them under the Contract in accordance with Labor Code section 1774. The Director of the Department of Industrial Relations ("DIR") of the State of California has determined the general prevailing rate of wages of per diem wages in the locality in which the work is to be performed for each craft or type of worker needed to execute the Contract. The Contractor acknowledges that it has examined the prevailing rate of per diem wages as established by the DIR. Copies of the current schedules for prevailing wages are on file at City Hall, and the contents of those schedules are incorporated herein as if set forth in full. The Contractor shall post a copy of the applicable prevailing wage determinations at each job site, along with any other work place posters required by law.

B. The City will not recognize any claims for additional compensation because of the payment of prevailing wages. The possibility of wage increases is one of the elements to be considered by the Contractor in determining its proposal, and will not under any circumstances be considered as the basis of a claim against the City.

C. By executing this Contract Contractor warrants that it has registered with the Department of Industrial Relations in accordance with Labor Code section 1725.5.

#### 2. PREVAILING WAGE RECORDS

A. The Contractor and each subcontractor shall keep an accurate payroll record which shows the name, address, social security number, correct work classification (in accordance with the wage decision), both straight and overtime worked each day and week, and hourly rate of pay, gross wages earned, deductions made and net wages paid to each journeyman, apprentice, worker or other employee paid by the Contractor /subcontractor in connection with the Work. These payroll records shall be certified and shall be made available at Contractor's principal office. These records shall be maintained during the course of the Work. The Contractor and all subcontractors shall make the certified payroll records available for inspection by City representatives upon request and shall permit such representatives to interview employees during the work hours on the job site.

B. The City shall notify the Contractor in writing of any discrepancies or violations that are discovered during such inspections. Written notification pursuant to this Section shall include the actions that will be necessary to resolve the discrepancies and/or violations. The Contractor shall be held entirely responsible for the prompt resolution of all non-compliances with the prevailing wage laws, including those pertaining to all subcontractors and any lower-tier subcontractors. The Contractor shall forfeit as penalty to the City the amount specified by law for each calendar day or portion thereof for each worker (whether employed by the Contractor or any subcontractor) paid less than the stipulated prevailing rates for any work done under the Contract in violation of the provisions of the Labor Code and in particular, Section 1775.

C. To the extent applicable, Contractor and subcontractors shall maintain and furnish to the Department of Industrial Relations ("DIR"), a certified copy of each weekly payroll (but no less often than monthly), with a statement of compliance signed under penalty of perjury. Such certified payroll reports shall be transmitted electronically to the DIR.

D. The City will not recognize any claims for additional compensation because of the payment of the prevailing wages. The possibility of wage increases is one of the elements to be considered by the Contractor in entering into the Contract, and will not under any circumstances, other than delays caused by the City, or the City's agents, be considered as the basis of a claim against the City.

### **3. Labor Discrimination**

Attention is directed to Section 1735 of the Labor Code, which reads as follows:

"No discrimination shall be made in the employment of persons upon public works because of their race, color, national origin or ancestry, physical handicap, mental condition, marital status, or sex of such person, except as provided in Section 12940 of the Government Code, and every General Contractor for public works violating this section is subject to all the penalties imposed for a violation of this chapter."

### **4 Eight-Hour Day Limitation**

(a) In accordance with the provisions of the Labor Code, and in particular, Sections 1810 to 1815 thereof, inclusive, incorporated herein by reference, eight hours labor shall constitute a day's work, and no worker in the employ of Contractor, or any Subcontractor, doing or contracting to do any part of the work contemplated by the Contract, shall be required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of those provisions; provided that subject to Labor Code Section 1815, a worker may perform work in excess of either eight (8) hours per day or forty (40) hours during any one week upon compensation for all hours worked in excess of eight (8) hours per day or forty (40) hours during any one week at not less than one and one-half times the basic rate of pay.

(b) The Contractor and each Subcontractor shall also keep an accurate record showing the names and actual hours worked of all workers employed by them in connection with the Contract. This record shall be open at all reasonable hours to the inspection of the City. It is hereby further agreed that, except as provided in (a) above, the Contractor shall forfeit as a penalty to the City the sum of twenty-five dollars (\$25) for each worker employed in the performance of the Contract by the Contractor or by any of its Subcontractors for each calendar day during which such worker is required or permitted to labor more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of Sections 1810 through 1815.

### **5. Compliance with State Requirements for Employment of Apprentices**

(a) The Contractor's attention is directed to Section 1777.5 of the Labor Code. Provisions of said Section pertaining to employment of registered apprentices are hereby

incorporated by reference into this Contract. As applicable, the Contractor or any Subcontractor employed by the Contractor in the performance of this Contract shall take such actions as necessary to comply with the provisions of Section 1777.5.

## ATTACHMENT F

### PERFORMANCE BOND (To be Submitted with Construction Agreement)

BOND NO.: \_\_\_\_\_

PREMIUM: \_\_\_\_\_  
**City of Rocklin**

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the CITY OF ROCKLIN (hereinafter referred to as "CITY") has awarded to \_\_\_\_\_, hereinafter designated as the "Principal" a contract for \_\_\_\_\_ (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by Principal is more particularly set forth in the Contract Documents for the Project dated \_\_\_\_\_, (hereinafter referred to as "Contract Documents"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, said Principal is required by said Contract Documents to perform the terms thereof and to furnish a bond for the faithful performance of said Contract Documents.

NOW, THEREFORE, we, the undersigned Principal and

\_\_\_\_\_ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto the CITY in the sum of \_\_\_\_\_ DOLLARS, (\$\_\_\_\_\_), said sum being not less than one hundred percent (100%) of the total amount of the Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if said Principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the Contract Documents and any alteration thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill all obligations including the one-year guarantee, or longer guarantee if required in the Contract Documents, of all materials and workmanship; and shall indemnify and save harmless the CITY, its officers and agents, as stipulated in said Contract Documents, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees including reasonable attorneys' fees, incurred by CITY in enforcing such obligation.

The obligations of Surety hereunder shall continue so long as any obligation of Principal remains. Nothing herein shall limit the CITY's rights or Principal's or Surety's obligations under the Contract, law or equity, including, but not limited to, California Code of Civil Procedure section 337.15.

Whenever Principal shall be, and is declared by the CITY to be, in default under the Contract Documents, Surety shall remedy the default pursuant to the Contract Documents, or shall promptly, at Surety's option:

(1) Take over and complete the Project in accordance with all terms and conditions in the Contract Documents; or

(2) Obtain a bid or bids for completing the Project in accordance with all terms and conditions in the Contract Documents and upon determination by Surety of the lowest responsive and responsible bidder, arrange for a Contract between such bidder, Surety and the CITY, and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Principal by the CITY under the Contract and any modification thereto, less any amount previously paid by the CITY to Principal and any other set offs pursuant to the Contract Documents.

(3) Permit the CITY to complete the Project in any manner consistent with California law and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Principal by the CITY under the Contract and any modification thereto, less any amount previously paid by the CITY to Principal and any other set offs pursuant to the Contract Documents.

If Surety does not proceed as provided in Paragraphs 1-3 with reasonable promptness, Surety shall be deemed to be in default on this Bond seven (7) days after receipt of additional written notice from the CITY to Surety demanding that the Surety perform its obligations under this Bond, and the CITY shall be entitled to enforce any remedy available to it.

Surety expressly agrees that the CITY may reject any contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by Principal. Surety shall not utilize Principal in completing the Project nor shall Surety accept a bid from Principal for completion of the Project if the CITY, when declaring Principal in default, notifies Surety of the CITY's objection to Principal's further participation in the completion of the Project.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project to be performed there under shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, then names and corporate seals of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to the authority of its governing body.

Principal: \_\_\_\_\_

By: \_\_\_\_\_

Surety: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Attorney in Fact: \_\_\_\_\_

**(Attach Attorney-In-Fact Certificate, Corporate Seal and Surety Seal. This bond must be accompanied by a current Power of Attorney Appointing the Attorney-in-Fact)**

**NOTICE:**

**A CERTIFICATE OF ACKNOWLEDGMENT IN ACCORDANCE WITH THE PROVISIONS OF CIVIL CODE SECTION 1189 MUST BE ATTACHED FOR EACH PERSON EXECUTING THIS AGREEMENT ON BEHALF OF PRINCIPAL AND SURETY.**

---

**ATTACHMENT G**

**PAYMENT BOND**  
**(To be Submitted with Construction Agreement)**

BOND NO.: \_\_\_\_\_

PREMIUM: \_\_\_\_\_  
**City of Rocklin**

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the CITY OF ROCKLIN (hereinafter referred to as "CITY") has awarded to \_\_\_\_\_, (hereinafter designated as "Principal") an agreement for \_\_\_\_\_ (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by Principal is more particularly set forth in the Contract Documents for the Project dated \_\_\_\_\_, (hereinafter referred to as the "Contract"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, said Principal is required to furnish a bond in connection with said Contract providing that if Principal or any of its subcontractors shall fail to pay for any materials, provisions, or other supplies, or terms used in, upon, for or about the performance of the Work contracted to be done, or for any work or labor done thereon of any kind the Surety on this bond will pay the same together with a reasonable attorney's fee in case suit is brought on the bond.

NOW, THEREFORE, we, the undersigned Principal and

\_\_\_\_\_ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto the CITY in the sum of \_\_\_\_\_ DOLLARS, (\$\_\_\_\_\_), said sum being not less than one hundred percent (100%) of the total amount of the Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if the Principal, his or its subcontractors, heirs, executors, administrators, successors, or assigns, shall fail to pay for any materials, provisions, or other supplies or machinery used in, upon, for or about the performance of the Work contracted to be done, or for work or labor thereon of any kind, or fail to pay any of the persons named in California Civil Code Section 9100, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of Principal and his subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor, and all other applicable laws of the State of California and rules and regulations of its agencies, then said Surety will pay the same in or to an amount not exceeding the sum specified herein. In case legal action is required to enforce the provisions of this bond, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to court costs, necessary disbursements and other consequential damages. In addition to the provisions hereinabove, it is agreed that this bond will inure to the benefit of any and all persons, companies and corporations entitled to make claims under Section 9100 of the California Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

The said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or additions to the terms of the said Contract or to the work to be performed thereunder or the specification accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work or to the specifications.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, then names and corporate seals of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to the authority of its governing body.

Principal: \_\_\_\_\_

By: \_\_\_\_\_

Surety: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Attorney in Fact: \_\_\_\_\_

**(Attach Attorney-In-Fact Certificate, Corporate Seal and Surety Seal. This bond must be accompanied by a current Power of Attorney Appointing the Attorney-in-Fact)**

**NOTICE:**

**A CERTIFICATE OF ACKNOWLEDGMENT IN ACCORDANCE WITH THE PROVISIONS OF CIVIL CODE SECTION 1189 MUST BE ATTACHED FOR EACH PERSON EXECUTING THIS AGREEMENT ON BEHALF OF PRINCIPAL AND SURETY.**

**ATTACHMENT H**

**WORKERS' COMPENSATION INSURANCE CERTIFICATION**  
**(To be Submitted with Construction Agreement)**

TO THE CITY OF ROCKLIN:

The undersigned does hereby certify that he/she is aware of the provisions of Section 3700 et seq. of the Labor Code which require every employer to be insured against liability for Workmen's compensation or to undertake self-insurance in accordance with the provisions of said Code, and that he will comply with such provisions before commencing the performance of work on this Contract.

Name of Contractor

By: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Date: \_\_\_\_\_

---

**PLEASE READ CAREFULLY BEFORE SIGNING**

---

To be signed by authorized corporate officer or partner or individual. If the Contractor is: (example)

1. An individual using a firm name, sign "John Doe, an individual doing business as "Blank Company."
2. An individual doing business under his own name, sign: your name only.
3. A co-partnership, sign" "John Doe, and Richard Doe, co-partners doing business as Blank Company, by John Doe, Co-Partner."
4. A corporation or limited liability company, sign: "Blank Company, by John Doe, Secretary." (or other title)
5. A joint venture, sign: "Blank Joint Venture, by John Doe, Managing Principal."

## ATTACHMENT J

### GUARANTEE FORM

{Print on Contractor/Subcontractor Letterhead and Submit at Close-Out}

{Contractor's Name} hereby unconditionally guarantees that the Work performed at \_\_\_\_\_ [insert Project] has been done in accordance with the requirements of the Contract therefor and further guarantees the Work of the Contract to be and remain free of defects in workmanship and materials for a period of one (1) year from and after City acceptance of the Work, in accordance with the General Conditions, unless a longer guarantee period is called for by the Contract Documents, in which case the terms of the longer guarantee shall govern. The Contractor hereby agrees to repair or replace any and all Work, together with any adjacent Work which may have been damaged or displaced in so doing, that may prove to be not in accordance with the requirements of the Contract or that may be defective in its workmanship or materials within the guarantee period specified, without any expense whatsoever to the City, ordinary wear and tear and unusual abuse and neglect only excepted. The Contractor has provided contract bonds, which will remain in full force and effect during the guarantee period.

The Contractor further agrees that within ten (10) calendar days after being notified in writing by the City of any Work not in accordance with the requirements of the contract or any defects in the Work, it will commence and prosecute with due diligence all Work necessary to fulfill the terms of this guarantee, and to complete the Work within a period of time stipulated in writing. In the event it fails to so comply, Contractor does hereby authorize the City to proceed to have such Work done at the Contractor's expense and it will pay the cost thereof upon demand. The City shall be entitled to all costs, including reasonable attorneys' fees, necessarily incurred upon the Contractor's refusal to pay the above costs.

The guarantee period for corrected defective work shall continue for a duration equivalent to the original guarantee period.

Notwithstanding the foregoing paragraph, in the event of an emergency constituting an immediate hazard to the health or safety of the employees of the City, or its property or licensees, the City may undertake at the Contractor's expense without prior notice, all Work necessary to correct such hazardous condition when it was caused by the Work of the Contractor not being in accordance with the requirements of this contract, or being defective, and to charge the same to the Contractor as specified in the preceding paragraph.

The guarantee set forth herein is not intended by the parties, nor shall it be construed, as in any way limiting or reducing the City's rights to enforce all terms of the Contract referenced hereinabove or the time for enforcement thereof. This guarantee is provided in addition to, and not in lieu of, the City's rights on such contract.

CONTRACTOR'S SIGNATURE \_\_\_\_\_

PRINT NAME \_\_\_\_\_

Title \_\_\_\_\_

**ATTACHMENT L**  
**[Optional]**

**ESCROW AGREEMENT FOR SECURITY DEPOSITS  
IN LIEU OF RETENTION**

This Escrow Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ the City of Rocklin (hereinafter called "Owner"), whose address is \_\_\_\_\_, \_\_\_\_\_, hereinafter called "Contractor" whose address is \_\_\_\_\_, and \_\_\_\_\_, hereinafter called "Escrow Agent", whose address is \_\_\_\_\_, \_\_\_\_\_.

For the consideration hereinafter set forth, the Owner, Contractor, and Escrow Agent agree as follows:

1. Pursuant to Section 22300 of the Public Contract Code of the State of California, Contractor has the option to deposit securities with Escrow Agent as a substitute for retention earnings required to be withheld by Owner pursuant to the Construction Contract entered into between Owner and Contractor for (in the amount of) \_\_\_\_\_ dated \_\_\_\_\_

(hereinafter referred to as the "Contract"). Alternatively, on written request of Contractor, Owner shall make payments of the retention earnings directly to the escrow agent. When Contractor deposits the securities as a substitute for Contract earnings, the Escrow Agent shall notify Owner within ten (10) days of the deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the Contract between Owner and Contractor. Securities shall be held in the name of the City of Rocklin, and shall designate the Contractor as the beneficial owner.

2. Owner shall make progress payments to the Contractor for those funds which otherwise would be withheld from progress payments pursuant to the Contract provisions, provided that the Escrow Agent holds securities in the form and amount specified above.

3. When Owner makes payment of retentions earned directly to the Escrow Agent, the Escrow Agent shall hold them for the benefit of Contractor until the time that the escrow created under this Escrow Agreement is terminated. Contractor may direct the investment of the payments into securities. All terms and conditions of this Escrow Agreement and the rights and responsibilities of the parties shall be equally applicable and binding when Owner pays the Escrow Agent directly.

4. Contractor shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the Escrow Account and all expenses of Owner. These expenses and payment terms shall be determined by Owner, Contractor, and Escrow Agent.

5. The interest earned on the securities or the money market accounts held in escrow and all interest earned on that interest shall be for the sole account of Contractor and shall be subject to withdrawal by Contractor at any time and from time to time without notice to Owner.

6. Contractor shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from Owner to the Escrow Agent that Owner consents to the withdrawal of the amount sought to be withdrawn by Contractor.

7. Owner shall have a right to draw upon the securities in the event of default by Contractor. Upon seven days' written notice to the Escrow Agent from Owner of the default, the Escrow Agent shall immediately convert the securities to cash and shall distribute the cash as instructed by Owner.

8. Upon receipt of written notification from Owner certifying that the Contract is final and complete, and that Contractor has complied with all requirements and procedures applicable to the Contract, Escrow Agent shall release to Contractor all securities and interest on deposit less escrow fees and charges of the Escrow Account. The escrow shall be closed immediately upon disbursement of all moneys and securities and payments of fees and charges.

9. Escrow Agent shall rely on the written notifications from Owner and the Contractor pursuant to Sections (5) to (8), inclusive, of this agreement and Owner and Contractor shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of the securities and interest as set forth above.

10. The names of the persons who are authorized to give written notice or to receive written notice on behalf of Owner and on behalf of Contractor in connection with the foregoing, and exemplars of their respective signatures are as follows:

On behalf of Owner:

---

Title

---

Name

---

Signature

---

Address

On behalf of Escrow Agent:

---

Title

---

Name

On behalf of Contractor:

---

Title

---

Name

---

Signature

---

Address

---

Signature

---

Address

At the time the Escrow Account is opened, Owner and Contractor shall deliver to the Escrow Agent a fully executed counterpart of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by their proper officers on the date first set forth above.

Owner:

---

Title

---

Name

---

Signature

Contractor:

---

Title

---

Name

---

Signature

**ATTACHMENT K**  
**GENERAL CONDITIONS**

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## **ARTICLE 1 TERMS AND DEFINITIONS**

### **1-1 GENERAL**

The Contract Documents are written to the Bidder before award and the Contractor after award. Before award, interpret sentences written in the imperative mode as starting with "The Bidder must" and interpret "you" as "the Bidder" and "your" as "the Bidder's." After award, interpret sentences written in the imperative mode as starting with "The Contractor must" and "you as "the Contractor" and "your" as "the Contractor's".

Where a location is not specified with the words "shown," "specified," or "described", interpret:

1. "Shown" as "shown on the plans."
2. "Specified" as "specified in the Specifications."
3. "Described" as "described in the Contract Documents." "Described" means "shown, specified or both."

Whenever the following terms, titles, or abbreviations are used in the Contract Documents, the intent and meaning shall be as herein defined. Working titles having a masculine gender, such as "workman" and "journeyman" and the pronoun "he", are utilized in the Contract Documents for the sake of brevity, and are intended to refer to persons of either gender.

### **1-2 ABBREVIATIONS**

AASHTO	American Association of State Highway and Transportation Officials
AC	Asphalt Concrete
ACI	American Concrete Institute
ADA	Americans with Disabilities Act
AISC	American Institute of Steel Construction
AISI	American Iron and Steel Institute
APA	American Plywood Association
ARB	California Air Resources Board
ASA	American Standards Association
ASME	American Society of Mechanical Engineers
ASTM	American Society for Testing and Materials
AT&T	American Telephone and Telegraph
AWG	American Wire Gage
AWS	American Welding Society
AWWA	American Water Works Association
BMP	Best Management Practice
California-	
MUTCD	California Manual of Uniform Traffic Control Devices
Cal-OSHA	California Occupational Safety and Health Administration
Caltrans	California Department of Transportation
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act of 1970
CL	Centerline
CPM	Critical Path Method
CSI	Construction Specifications Institute
CWA	Clean Water Act

CY	Cubic Yards
DI	Drop Inlet
DIR	California Department of Industrial Relations
DLSE	Division of Labor Standards Enforcement
DWR	Daily Work Report
EA	Each
EP	Edge of Pavement
ESCP	Erosion and Sediment Control Plan
FS	Federal Specifications
LF	Linear Feet
LS	Lump Sum
MSDS	Material Safety Data Sheet
NEC	National Electrical Code
NEMA	National Electrical Manufacturers Association
OSHA	Occupational Safety and Health Act
OPRL	DIR, Director's Office of Policy, Research and Legislation
PCC	Portland Cement Concrete
PG&E	Pacific Gas & Electric
PS	Pump Station
QC	Quality Control
QSD	Qualified SWPPP Developer
QSP	Qualified SWPPP Practitioner
SD	Storm Drain or Storm Drainage
SF	Square Foot/Feet
SS	Sanitary Sewer
STA	Station
SWPPP	Storm Water Pollution Prevention Plan
SWRCB	State Water Resources Control Board
TCP	Traffic Control Plan
Title 8	Title 8 (Construction Safety Orders) of the California Code of Regulations
Title 19	Title 19 (Public Safety) of the California Code of Regulations
Title 24	Title 24 (Building Standards) of the California Code of Regulations
TOC	Top of Curb
Typ. or TYP	Typical
UL	Underwriters' Laboratories, Inc.
UBC	Uniform Building Code (latest edition)
UMC	Uniform Mechanical Code (latest edition)
UPC	Uniform Plumbing Code (latest edition)
USA	Underground Service Alert

### 1-3 DEFINITIONS

**Acceptance, Final Acceptance** – Formal action of the City of Rocklin in determining that the Contractor's work has been completed in accordance with the Contract Documents and in notifying the Contractor in writing of the acceptability of the Work.

**Acts of God** – "Acts of God" shall include only the following occurrences or conditions and effects: earthquakes in excess of a magnitude of 3.5 on the Richter Scale, tidal waves, flooding, tornadoes and hurricanes.

**Addenda** – Written or graphic instruments issued prior to the opening of Bids which clarify,

correct, or change the bidding requirements or the proposed Contract Documents.

**Agreement** – The written agreement signed by the City and the Contractor covering the Work and the furnishing of labor, materials, tools, equipment, supplies, transportation, supervision, resources, and everything necessary to complete the Work.

**Allowance** – An amount of money set aside under the Contract for a special purpose identified in the Contract.

**Architect, Consulting Engineer and/or Construction Manager** – A person or persons, firm, partnership, joint venture, corporation, or combination thereof or authorized representative thereof, acting in the capacity of consultant to the City. The Architect or Consulting Engineer or Construction Manager shall issue directions to the Contractor only through the City. When the Contract Documents require that approval be obtained from the Architect or Consulting Engineer or Construction Manager, such approval shall be requested from and be given by the City.

**As Shown, Etc.** – Where "as shown", "as latest indicated", "as detailed", or words of similar import are used, the reference is to the Contract unless specifically stated otherwise. Where "as directed", "as permitted", "approved", or words of similar import are used, they shall mean the written direction, permission, or approval of the City.

**Bid** – When submitted on the prescribed bid form, properly signed and guaranteed, the Bid constitutes the offer of the Bidder to complete the Work at the price shown on the Bidder's bid form.

**Bidder** – Any person, persons, firm, partnership, joint venture, corporation, limited liability company or combination thereof, submitting a Bid for the Work, acting directly or through a duly authorized representative.

**Bid Documents** – The sum of the documents that comprise the Bid by a Bidder to perform the Work.

**Bid Form** – The approved form, which includes a sum of required documents, upon which the City requires a formal Bid be prepared and submitted for the Work. See **BID FORM**.

**Bid Guarantee** – The cash, cashier's check, certified check, or Bidder's bond accompanying the Bid submitted by the Bidder as a guaranty that the Bidder will enter into a Contract with the City for the performance of the Work if the Contract is awarded to the Bidder.

**Bid Item** – Individual line items to be included in the Bid, as set forth on the Bid Form.

### **Bid Opening – Not applicable**

**Calendar Day** – Every day shown on the calendar. When the Contract Time is stated in Calendar Days, every day will be charged toward the Contract Time.

**Change Order** – A Contract amendment approved by the City that includes, but is not limited to, alterations, deviations, additions to, or deletions from, the Contract which are required for the proper completion of the Work. A Change Order may or may not include adjustments to the Contract Time and/or to the Total Contract Price.

**City** – Shall mean the City of Rocklin, acting through its authorized representatives.

**City Council** – The City Council of the City of Rocklin, a political subdivision of the State of California. Also referred to as “Council”.

**City of Rocklin Construction Standard Specifications** – the City’s standard specifications for construction, located on the City’s website.

**City of Rocklin Improvement Standards** – the City’s standard requirement for improvement projects, located on the City’s website.

**Completion** – The point in the Project at which the Work is 100% performed.

**Construction Change Directive (CCD)** – A written order to the Contractor, issued after execution of the Contract, signed by the City or the Owner’s Representative directing a change in the Work and stating a proposed basis for adjustment, if any, in the Total Contract Price or Contract Time, or both, and which shall be used in the absence of total agreement with the Contractor on the terms of a Change Order or when time does not permit processing of a Change Order prior to implementation of the change.

**Contract** – The entire binding agreement and contract between the City and Contractor relating to the Project, including the Agreement, and all documents incorporated into the Agreement by reference, and all Contract Documents.

**Contract Documents** – The Notice to Contractors, Addenda, Bid Form, Agreement, Plans, General Conditions, Special Provisions, General Requirements (Division 1), Technical Specifications (Divisions 2 through 16), Permits from other agencies as may be required by law, City of Rocklin Construction Specifications, Improvement Standards and Standard Drawings, Caltrans Standard Plans and Specifications as applicable, Standard Forms, Supplemental Drawings, all required bonds, Exhibits, the Contract Schedule, Storm Water Pollution Prevention Plan (whether prepared by the City or the Contractor) and any and all supplemental agreements amending or extending the Work contemplated and which may be required to complete the Work in an acceptable manner. Supplemental agreements are written agreements covering alterations, amendments or extensions to the Contract Documents and include Change Orders, Construction Change Directives, Field Directives, Field Orders and Supplemental Drawings.

**Contract Commencement Date** – The date established in the Notice to Proceed. If there is no Notice to Proceed, it shall be the date of the executed Agreement for Construction or such other date as may be established therein.

**Contract Completion Date** – The date by which the Contract requires Completion.

**Contract Price** – The total price for the Work as bid by Contractor, including any additions or subtractions via Change Orders.

**Contract Schedule** – The schedule produced by the Contractor in response to the requirements of the Contract Documents.

**Contract Time** – The time stated in the Contract for completion of the Work. The Contract Time may be a single allotment of time, a group of times specific to portions of the Work, or a combination of the two.

**Contractor** – The person or persons, firm, partnership, joint venture, corporation, or combination thereof, private or municipal, who (that) has (have) entered into a Contract, as defined in the Contract Documents, with the City.

**Day** – Any reference to “day” or “days” without expressly stating whether they are “working days” or “calendar days” shall be construed to mean calendar days.

**Director** – The person appointed by the City Manager for the City of Rocklin for the department through which the Project will be procured.

**Drawings** – Also referred to as “Plans”. The Project Plans, Standard Drawings, drawings, profiles, typical cross sections, general cross sections, Working Drawings and supplemental drawings, plates or reproductions thereof, approved by the City, which show the locations, character, dimensions and details of the Work to be performed. Once approved, all such drawings are incorporated into and become a part of the Contract Documents whether or not reproduced in the Special Provisions.

In the above definition, the following terms are defined as follows:

A. **Project Plans**: The project plans and specific details and dimensions particular to the Work and as supplemented by the Standard Drawings insofar as the same may apply.

**Engineer** – The City Engineer of the City of Rocklin for which work will be done under these Contract Documents, acting personally or through agents or assistants duly authorized by the Engineer.

**Estimated Quantities** – The list of items of Work and the estimated quantities associated with the Work. The Estimated Quantities provide the basis for the Bid.

**Field Directive** – Written documentation of the actions of the City in directing the Contractor. Also referred to as a “Directive.”

**General Conditions** – Specific clauses that are part of the Contract and are located in Chapters 1-11. They assist in the governing of the Contract and in the contract performance, setting forth conditions and requirements of the Contractor and the City.

**General Requirements** – The part of the Contract Documents establishing special conditions or requirements particular to the Work and general clauses that establish how the Project is to be administered and supplementary to the General Conditions and Special Provisions.

**Hazardous Waste** – The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

**Inspector** – The person or persons authorized to act as agent(s) for the City in the inspection of the Work.

**Invitation for Bids** – The written notice whereby interested parties are informed of the date, location, and time of the Bid Opening of a proposed City Project and the terms and conditions of submitting Bids to perform the Work. Also called Notice to Contractors.

**Legal Holidays** – Legal holidays shall include the following holidays designated by the City: New Year's Day, Martin Luther King Day, President's Day, Cesar Chavez Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, the day after Thanksgiving, Christmas Eve, and Christmas Day.

**Notice to Contractors** – Same as Invitation for Bids.

**Notice To Proceed** – The written authorization by the City to the Contractor specifying the date the Work may begin and any conditions regarding the beginning of the Work.

**Plans** – See "Drawings."

**Progress Schedule** – A schedule prepared and maintained by the Contractor indicating the current status of the Work and the projected activities, tasks and durations planned to complete the Work in accordance with the Contract Time of Completion dates.

**Owner's Representative** – The City's designated agent engaged to perform all functions delegated to the Owner's Representative by the Contract Documents. The Owner's Representative may or may not be the Project Manager or a construction manager. The Owner's Representative will be the Contractor's primary contact during construction of the Project.

**Project** – Shall mean the Work.

**Project Manager** – The City's employee assigned to oversee the Project on a daily basis.

**Proposed Change Order (PCO)** – A document issued by the Contractor proposing a change to the Work and stating a proposed basis for adjustment, if any, in the Total Contract Price Contract Time, or both. A PCO shall be used by the Contractor to respond to a Request for Proposal. A PCO is not effective to authorize the proposed change to the Work, to the Total Contract Price or to the Contract Time unless it is accepted in writing by the City.

**Record Drawings** – Drawings prepared by the Contractor that document changes to, additions to, or deductions from the Plans, and which represent the Work as constructed, including, but not limited to, existing utilities found during construction of the Work.

**Reference to Codes** – Unless otherwise noted, all references to statutes are to the laws of the State of California and/or of the United States as codified in the various specified codes.

**Request for Information (RFI)** – A document issued by the Contractor seeking clarification and/or additional information regarding an aspect of the Work. An RFI is not to be used to request materials/equipment substitutions or value engineering/cost reduction incentive proposals. The response to the RFI does not constitute authorization or direction to proceed with any changed or additional work. Changed or additional work must be separately authorized by the City.

**Request for Proposal (RFP)** – A document issued by the Owner's Representative requesting pricing information and/or a proposed adjustment in Contract Time for a described scope of work. An RFP is not a Change Order, a CCD or a direction to proceed with the scope of work described in the RFP. The Contractor's response to the RFP shall be in the form of a Proposed Change Order.

**Schedule of Submittals** – A schedule prepared and maintained by the Contractor of required

submittals and the time requirements to support scheduled performance of related construction activities.

**Schedule of Values** – A statement furnished by the Contractor to the City reflecting the portions of the Total Contract Price allotted for the various parts of the Work for each work activity contained on the Contract Schedule. Unless otherwise indicated in the Specifications, the total of the Schedule of Values shall equal the full cost of the Work, including all labor, material, equipment, overhead, and profit. For lump sum contracts, the Schedule of Values is the basis for reviewing the Contractor's application for progress payments.

**Special Provisions** – The Special Provisions are specific clauses setting forth conditions or requirements particular to the Work.

**Specifications** – The directions, provisions, and requirements contained herein. When the term "Specifications" or "these Specifications" is used, it means the provisions as set forth herein, together with any amendments or revisions that may be set forth in the Special Provisions. The Specifications are comprised of "General Conditions", "Special Provisions", "General Requirements" and "Technical Specifications".

**Standard Drawings** – The City of Rocklin Construction Specifications, Improvement Standards and Standard Drawings, which are incorporated into the Standard Construction Specifications, and made a part of the Plans by reference to one or more specific Standard Drawings.

**State** – The State of California.

**State Specifications** – Unless otherwise stated in the Special Provisions, the version of the Standard Specifications of the State of California, Department of Transportation, in effect at the time of Notice to Contractors.

**State Plans** – Unless otherwise stated in the Special Provisions, the version of the Standard Plans of the State of California, Department of Transportation, in effect at the time of Notice to Contractors.

**Subcontractor** – A properly licensed party under contract to and responsible to the Contractor for performing a specified part of the Work; or a properly licensed party under contract and responsible to a Subcontractor of the Contractor.

**Substantial Completion** – The stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so City can occupy or utilize the Work for its intended use, and only minor corrective Work remains to be performed, all required approvals, certificates of occupancy and other sign-off from any other public agencies with jurisdiction have been obtained, (provided such approvals are not delayed as a result of causes unrelated to Contractor's or its Subcontractors', sub-subcontractors', or suppliers' performance or failure to perform the Work or to satisfy its obligations under the Contract Documents) and Contractor has cleaned up and removed all equipment, tools and other materials from the Work area. Contractor shall secure and deliver to City written warranties and guaranties from its Subcontractors, sub-subcontractors and suppliers bearing the date of Substantial Completion or some other date as may be agreed to by City and stating the period of warranty as required by the Contract Documents.

**Supplemental Drawing** – Supplemental Drawings define the Plans or Specifications in greater

detail by providing additional information that may have not been specifically or clearly shown or called out on the Plans or in the Specifications.

**Technical Specifications** – The provisions of the Specifications that describe the technical aspects of the Work, including all technical references contained therein.

**Total Bid Price** – The aggregate sum of the Bid, including all additive items.

**Total Contract Price** – The total price for the Work as bid by the Contractor, including any additions or subtractions made via Change Orders.

**Work** – All obligations and/or actions which the Contractor is contractually required to fulfill and/or perform as specified, indicated, shown, contemplated, or implied in the Contract, including but not limited to (1) all alterations, amendments, or extensions made by Change Order or other written directives or directives of the City; (2) furnishing of all materials, supplies, equipment, tools, labor, transportation, supervision, and all incidentals necessary to perform all tasks required by the Contract; (3) all tasks, duties and obligations required by the Contract; and (4) closing documents for the Project such as complete Record Drawings and submission of all manuals.

**Working Day** – Any day except: (a) Saturdays, Sundays, and City Legal Holidays; (b) days on which the Contractor is specifically required by the Special Provisions or by law to suspend construction operations; or (c) days on which the Contractor is prevented from proceeding with the current controlling operation or operations of the Work for at least five (5) hours per day due to inclement weather, or conditions resulting immediately therefrom.

**Working Drawing** – Working Drawings detail a particular item of work and the manner in which it is to be accomplished or performed. Working Drawings are prepared by the Contractor as a submittal or a portion of a submittal and may be specifically requested by the City or required in the Contract or a Field Directive or other written directive.

## **ARTICLE 2 – RESERVED (INTENTIONALLY LEFT BLANK)**

## **ARTICLE 3 – INSURANCE**

### **3-1 INSURANCE**

The Contractor shall procure, maintain, and keep in force at all times during the term of the Contract in insurance companies acceptable to the City, at the Contractor's sole expense, the following insurance:

#### **3-1.01 General Liability**

General Liability insurance including, but not limited to, protection for claims of bodily injury and property damage liability, personal and advertising injury liability, contractual liability applicable to the Contractor's assumed liability under the Contract, and products and completed operations liability. Coverage shall be at least as broad as "Insurance Services Office Commercial General Liability Coverage Form CG 0001" (occurrence). The limits of liability shall be not less than:

Each Occurrence

Two Million Dollars (\$2,000,000) combined single limits for Bodily Injury and Property Damage

Personal and Advertising Injury	One Million Dollars (\$1,000,000)
Products and Completed Operations Aggregate	One Million Dollars (\$1,000,000) combined single Limits for Bodily Injury and Property Damage
General Aggregate	Four Million Dollars (\$4,000,000) combined single limits for Bodily Injury and Property Damage
Fire Damage	One Hundred Thousand Dollars (\$100,000)

The policy shall provide coverage for claims arising out of subsidence.

The Contractor shall procure and maintain Products and Completed Operations Coverage with a carrier acceptable to the City through the expiration of the patent deficiency in the statute of repose set forth in the Code of Civil Procedure section 337.1.

### **3-1.02 Automobile Liability**

Automobile Liability insurance providing protection against claims of bodily injury and property damage arising out of ownership, operation, maintenance, or use of owned, hired, and non-owned automobiles. Coverage shall be at least as broad as "Insurance Services Office Business Auto Coverage Form CA 0001," symbol 1 (any auto). The limits of liability shall not be less than:

Bodily Injury and Property Damage Combined Single Limit	One Million Dollars (\$1,000,000)
--	-----------------------------------

### **3-1.03 Workers' Compensation**

Workers' Compensation insurance, with coverage as required by the State of California (unless the Contractor is a qualified self-insurer with the State of California), and Employers' Liability coverage. The limits of Employers' Liability shall not be less than:

Each Accident	One Million Dollars (\$1,000,000)
Disease Each Employee	One Million Dollars (\$1,000,000)
Disease Policy Limit	One Million Dollars (\$1,000,000)

The Workers' Compensation policy required hereunder shall be endorsed to state that the Workers' Compensation carrier waives its right of subrogation against the City, its officers, officials, employees, agents or volunteers.

In the event the Contractor is self-insured, the Contractor shall furnish a Certificate of Permission to Self-Insure by the Department of Industrial Relations Administration of Self-Insurance, Sacramento. Contractor shall provide evidence of waiver of its right of subrogation against the City, its offices, officials, employees, agents or volunteers as a self-insurer.

### **3-1.04 Excess or Umbrella Liability**

If the Special Provisions require limits of insurance greater than those specified in the General Conditions, the Contractor shall maintain excess or umbrella liability insurance providing excess coverage at least as broad as the underlying coverage for General Liability, Automobile and Employer's Liability with a limit equal to the amount stated in the Special Provisions per occurrence and aggregate.

#### **3-1.04.A Contractor's Equipment**

The Contractor, and each of its Subcontractors, shall separately insure its own equipment for loss and damage. The Contractor's Property and Inland Marine policies shall include, or be endorsed to include, a waiver of subrogation against the City, its officers, officials, employees, agents, and volunteers which might arise by reason of damage to the Contractor's property or equipment (owned, leased or borrowed) in connection with work performed under this Contract by the Contractor.

#### **3-1.04.B Railroad Protective Liability**

When stated as a requirement in the Special Provisions, the Contractor shall procure, maintain, and keep in force at all times during the term of the Contract, at the Contractor's sole expense, Railroad Protective Liability insurance with limits of liability as set forth in the Special Provisions.

#### **3-1.04.C Builder's Risk Insurance**

When stated as a requirement in the Special Provisions, the Contractor shall procure, maintain, and keep in force at all times during the term of the Contract and until the date of transfer of the insurable interest to and acceptance by the City, at the Contractor's sole expense, Builder's Risk insurance with limits of liability equal to one hundred percent (100%) of the full replacement cost of the Work.

1. Coverage shall be written on a Replacement Cost basis without application of coinsurance and shall cover the Project sites against losses included in perils usually included in a "Special Form" policy format in addition the policy shall include:
  - a. Earthquake and Land Movement and Flood.
  - b. Loss that ensues from design error, defective materials, or faulty workmanship.
  - c. Mechanical breakdown or electrical damage, including testing, magnetic disturbance and changes in temperature or humidity disturbance, and changes in temperature or humidity.

The property covered shall include the Work, including any materials, equipment, or other items to be incorporated therein while the same are located at the construction site, stored off site, while in transit or at the place of manufacture. In addition, the policy shall cover collapse, falsework, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for architects, engineers and other design professionals required as a result of such insured loss. The policy

shall contain a provision that the interests of the City and the Contractor, Subcontractors and material suppliers are insureds under the policy and that any loss shall be payable to the insureds as their interests may appear.

When stated as a requirement in the Special Provisions, Builder's Risk Insurance shall include Delay in Opening coverage with limits of liability, and for the period of time, as set forth in the Special Provisions. Coverage shall include debt service, expense, loss of earnings or rental income or other loss incurred by the City, without deduction, due to the failure of the Project being completed on schedule.

2. The maximum deductible for earthquake, land movement and flood allowable under this policy shall be five percent (5%) of replacement value at risk at the time loss. A one hundred thousand dollars (\$100,000) minimum is acceptable. The maximum deductible for all other perils allowable under this policy shall be ten thousand dollars (\$10,000). All deductibles shall be borne solely by the Contractor, Subcontractors, or material suppliers, and the City shall not be responsible to pay any deductible, in whole or in part.
3. The City and the Contractor waive all rights against each other and against all other contractors for loss or damage to the extent reimbursed by Builder's Risk insurance or any other property or equipment insurance applicable to the Work, except such rights as they may have to the proceeds of such insurance. If the policies of insurance referred to in this section require an endorsement or consent of the insurance company to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed to obtain such consent.
4. If not covered by Builder's Risk insurance or any other property or equipment insurance required by this Contract, the Contractor shall procure, maintain, and keep in force at all times during the term of the Contract, at the Contractor's sole expense, property insurance for portions of the Contractor's work and/or equipment to be incorporated therein stored offsite or in transit.

### **3-1,04.D Environmental Liability Insurance**

When stated as a requirement in the Special Provisions, the Contractor shall procure, maintain, and keep in force at all times during the term of the Contract, at the Contractor's sole expense, Environmental Liability insurance, using an occurrence form (Claims Made forms are not acceptable unless expressly allowed by the City), which includes coverage for sudden and accidental pollution arising out of the handling of hazardous materials or hazardous wastes; non-hazardous materials or non-hazardous wastes that, when released into the environment, violate regulatory standards of the Federal, State or Local Government; and coverage for liability arising out of the handling of asbestos.

If coverage for Environmental Liability insurance is allowed by the City to be written on a claims-made form, the following provisions apply:

Limit of coverage shall be not less than ten million dollars combined single limits for Bodily Injury and Property Damage (\$10,000,000).

Insurance must be maintained and evidence of insurance must be provided for at least four (4)

years after completion of the Work. Additional provisions, including Project specific coverage may be required at the sole discretion of the City.

### **3-1.04.E Other Provisions**

1. The Contractor's General Liability, Automobile Liability, and any Excess or Umbrella Liability or other insurances required in the Special Provisions, shall contain the following provisions:
  - a. The City, its officers, officials, employees, agents, and volunteers shall be covered as additional insureds as respects liability arising out of the activities performed by or on behalf of the Contractor, products and completed operations of the Contractor, premises owned, occupied, or used by the Contractor, or automobiles owned, leased, hired, or borrowed by the Contractor. The policy shall contain no special limitations on the scope of coverage afforded to the City, its officers, officials, employees, agents, or volunteers.
  - b. For any claims related to this Contract, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, agents, or volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
  - c. Any failure to comply with reporting or other provisions of the policies on the part of the Contractor, including breaches of warranties, shall not affect coverage provided to the City, its officers, officials, employees, agents, or volunteers.
2. The Contractor's General Liability and any Excess or Umbrella Liability insurance policies shall contain an endorsement stating that any aggregate limits shall apply separately to the Work.
3. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
4. Each insurance policy by endorsement or provision shall state that coverage shall not be suspended, voided, cancelled, reduced in scope of coverage or in limits, non-renewed, or materially changed unless the insurer(s) provide thirty (30) Calendar Days written notice by certified mail to the City prior to such change. Ten (10) Calendar Days prior written notice by certified mail shall be given to the City in the event of cancellation due to nonpayment of premium.
5. All of the Contractor's insurance coverage, except as noted below, shall be placed with insurance companies with a current A.M. Best rating of at least A-IX.

Exception: Workers' Compensation which is provided through a State Compensation Insurance Fund or a qualified self-insurer for Workers'

Compensation under California law.

6. The Contractor shall sign and file with the City the following certification prior to commencing performance of the work of the Contract:

"I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the Work of this Contract."

Said certification is included in the Contract, and signature and return of the Contract shall constitute signing and filing of the said certification.

7. The City, at its discretion, may require new types of insurance coverage or increase the limits of insurance coverage required hereunder at any time during the term of the Contract by giving thirty (30) Calendar Days written notice to the Contractor. Contractor shall immediately procure such insurance or increase the limits of coverage and provide certificates of insurance, including copies of all required endorsements, to the City within thirty (30) Calendar Days of receipt of the City's request.
8. The required insurance coverage shall be subject to the approval of the City, but any acceptance of insurance certificates by the City shall in no way limit or relieve the Contractor of its duties and responsibilities in this Contract.
9. If the Contractor fails to procure or maintain insurance as required by this Section 3-9 and each of its subsections and any Special Provisions, or fails to furnish the City with proof of such insurance, the City, at its discretion, may procure any or all such insurance. Premiums for such insurance procured by the City shall be deducted and retained from any sums due the Contractor under the Contract. Failure of the City to obtain such insurance shall in no way relieve the Contractor from any of the Contractor's responsibilities under the Contract. Any failure of the Contractor to maintain any item of the required insurance is sufficient cause for termination of the Contract as a material breach.
10. The making of progress payments to the Contractor shall not be construed as relieving the Contractor of responsibility for loss or damage, or destruction occurring prior to final acceptance by the City. Partial payment does not constitute partial acceptance.
11. The City is authorized to execute amendments and waivers, with or without conditions, to the insurance requirements of the Contract. The City will provide such amendments or waivers in writing to the Contractor.
12. The Contractor is responsible for the acts and omission of all of its Subcontractors and shall require all of its Subcontractors to maintain adequate insurance.

The failure of the City to enforce in a timely manner any of the provisions of this Section 3-9 and/or any of its subsections shall not act as a waiver to enforcement of any of these provisions at any time during the term of the Contract.

### **3-9.04.F Deductibles and Self-Insurance Retention**

Any deductible or self-insured retention over \$10,000 that applies to General Liability or Automobile Liability must be declared to and approved by the City.

### **3-1.05 Notification of Accident or Occurrence**

The Contractor shall report by telephone to the City within twenty-four (24) hours and also report in writing to the City within fifteen (15) Calendar Days after the Contractor or any Subcontractors or agents have knowledge of any accident or occurrence involving death of or injury to any person or persons, or damage in excess of ten thousand dollars (\$10,000) to the Work, property of the City or others, arising out of any work done by or on behalf of the Contractor as part of the Contract. Such report shall contain:

1. The date and time of the occurrence,
2. The names and addresses of all persons involved, and
3. A description of the accident or occurrence and the nature and extent of injury or damage.

### **3-2 NOTIFICATION OF CLAIM**

If any claim for damages is filed with the Contractor or if any lawsuit is instituted against the Contractor, that arises out of or is in any way connected with the Contractor's performance under this Contract and that in any way, directly or indirectly, contingently or otherwise, affects or might reasonably affect the City, Contractor shall give prompt and timely notice thereof to the City. Notice shall be prompt and timely if given within thirty (30) Calendar Days following the date of receipt of a claim or ten (10) Calendar Days following the date of service of process of a lawsuit.

### **ARTICLE 4 – RESERVED (INTENTIONALLY LEFT BLANK)**

### **ARTICLE 5 - CONTROL OF WORK AND MATERIALS**

#### **5-1 AUTHORITY OF CITY**

The City will decide all questions regarding the quality and acceptability of materials furnished, work performed, and rate of progress of the Work. The City will decide all questions regarding the interpretation and fulfillment of the Contract on the part of the Contractor, and all questions as to the rights of different contractors that may be involved with the Work.

The City will determine the amount and quality of the Work performed and materials furnished for which payment is to be made under the Contract.

The City will administer its authority through a duly designated representative identified at the preconstruction meeting. The Contractor and the City representative shall make good faith attempts to resolve disputes that arise during the performance of the Work.

Any order given by the City not otherwise required by the Contract to be in writing will be given or confirmed by the City in writing at the Contractor's request. Such request shall state the specific subject of the decision, directive, instruction, or notice and, if it has been given orally, its date, time, place, author and recipient.

## **5-2 ATTENTION AND COOPERATION OF CONTRACTOR**

The Contractor shall comply with any written instruction delivered to the Contractor or the Contractor's authorized representative by appropriately authorized representatives of the City.

## **5-3 SUGGESTIONS TO CONTRACTOR**

Any plan or method suggested to the Contractor by the City, but not specified or required in writing, if adopted or followed in whole or in part by the Contractor, shall be used at the risk and responsibility of the Contractor. The City assumes no responsibility.

## **5-4 SEPARATE CONTRACTS**

The City reserves the right to award other contracts in connection with the Work. The Contractor shall afford other contractors reasonable opportunity for the delivery and storage of their materials and the execution of their work and shall properly connect and coordinate its work with the other contractors.

If any part of the Contractor's work depends upon the work of any other contractor for proper execution or results, the Contractor shall inspect and promptly report to the City any defects in such work that render the other contractor's work unsuitable for proper execution and results. The Contractor's failure to so inspect and promptly report shall constitute an acceptance of the other contractor's work as fit and proper for the reception of the Contractor's work, unless defects develop in the other contractor's work after the execution of the Contractor's work.

## **5-5 COOPERATION WITH OTHER CONTRACTORS**

Other contractors and other forces, including the City and/or adjacent property owners may perform work adjacent to or within the Work area concurrent with the Contractor's operations. The Contractor shall conduct operations to minimize interference with the work of other forces or contractors. Any disputes or conflicts between the Contractor and other forces or contractors retained by the City which create delays or hindrance to each other shall be referred to the City for resolution. If the Contractor's work is delayed because of the acts or omissions of any other force or contractor, the Contractor shall have no claim against the City other than for an extension of time (see Section 7-18, "Extension of Time", of these General Conditions).

## **5-6 CONTRACTOR'S DISMISSAL OF UNSATISFACTORY EMPLOYEES**

If any person employed by the Contractor or any Subcontractor shall fail or refuse to carry out the directions of the City or the provisions of the Contract, or is, in the opinion of the City, incompetent, unfaithful, intemperate, or disorderly; or uses threatening or abusive language or conduct to any person on or associated with the Work or with the public; or is acting or working in a manner that compromises the safety of the public, Work or persons or property involved with the Work, or is otherwise unsatisfactory, the Contractor shall, when requested by the City, remove the worker from the Work site immediately, and shall not again employ the removed worker on the Work except with the written consent of the City.

## **5-7 CONTRACTOR'S EQUIPMENT**

The Contractor shall provide adequate and suitable equipment, labor, and means of construction to meet all the requirements of the Work, including completion within the Contract Time. Only equipment suitable to produce the quality of work required will be permitted to operate on the Project. Specific types of equipment may be requested by the City on component parts of the Work.

The City may, at the City's option, permit the use of new or improved equipment, at the Contractor's cost. If such permission is granted, it is understood that it is granted for the purpose of testing the quality and continuous attainment of work produced by the equipment, and the City shall have the right to withdraw such permission at any time that the City determines that the alternative equipment is not producing work that is equal in all respects to that specified, or will not complete the Work in the time specified in the Contract. The cost for mobilizing and demobilizing new or improved equipment shall be borne by the Contractor.

In any case where the use of a particular type or piece of equipment has been banned, or in cases where the City has condemned for use on the Work any piece or pieces of equipment, the Contractor shall promptly remove such equipment from the site of the Work at its cost. Failure to do so within a reasonable time may be considered a breach of contract. The cost for mobilizing and demobilizing replacement equipment shall be borne by the Contractor.

## **5-8 CONTRACTOR'S SUBMITTALS**

### **5-8.01 Submittals – General – Not Applicable**

Intentionally Left Blank.

### **5-8.02 Resubmittals**

Resubmittals shall address all comments from the City. Partial resubmittals may be returned 'REVISE AND RESUBMIT.' The Contractor is responsible for the City's review costs for each resubmittal in excess of the first resubmittal. These costs will be charged to the Contractor and will be deducted from progress payments.

### **5-8.03 Submittals Containing Proprietary Information – Not Applicable**

Intentionally Left Blank.

### **5-8.04 Electrical, Instrumentation, Control, and Communication Systems – Not Applicable**

Intentionally Left Blank.

### **5-8.05 Maintenance and Operations (M&O) Submittals**

For use in subsequent maintenance and operations the Contractor shall furnish to the City electronically and bound together and indexed all maintenance and operation information, including all the highest level of factory maintenance manuals (greatest level of detail) that are available to factory representatives with a three-year subscription to newsletters and updates supplied by the manufacturer covering all equipment and systems included in the Contract. The

City may withhold up to thirty percent (30%) of the Total Contract Price until M&O submittals have been submitted and approved. The submittal shall include at a minimum:

- Drawings
- Illustrations
- Parts lists
- Wiring diagrams of systems
- Internal wiring diagrams and circuit board schematics and layout drawings
- Manufacturer's recommended spare parts lists
- Name, address and phone number of nearest parts and service City
- Systems balance data
- Maintenance and service instructions
- Operation instructions
- Software including annotated source lists and programs

The submittal of maintenance and operation information is required for all mechanical, electrical, instrumentation, control, communications, sound, or special equipment and systems.

The Contractor shall obtain approval of the required data at least thirty (30) Calendar Days prior to any required training or the final inspection date.

## **5-9 DAILY REPORTS**

No less than on a weekly basis, the Contractor shall submit, upon request of the City, to the City daily reports, which shall include, without limitation, the identity of Subcontractors on the site, an accurate headcount of workers on the site, materials and equipment delivered to the site, visitors to the site, work performed, and any problems encountered.

## **5-10 SURVEYS**

### **5-10.01 Surveys – Not Applicable**

Intentionally Left Blank.

### **5-10.01.A Streets and Highways – Not Applicable**

Intentionally Left Blank.

## **5-10.01.B Sewer, Water, and Drainage Facilities – Not Applicable**

Intentionally Left Blank.

## **5-10.02 Survey Monuments – Not Applicable**

Intentionally Left Blank.

## **5-11 RESPONSIBILITY FOR ACCURACY**

The Contractor shall obtain all necessary measurements for and from the Work, and shall check dimensions, elevations, and grades for all layout and construction work and shall supervise such work; the accuracy for all of which the Contractor shall be responsible. The Contractor is responsible for adjusting, correcting, and coordinating the work of all Subcontractors so that no discrepancies result.

## **5-12 DUTIES AND POWERS OF INSPECTORS**

Inspectors are the authorized representatives of the City. Their duty is to inspect materials and workmanship of those portions of the Work to which they are assigned, either individually or collectively, under instructions of the City, and to report all deviations from the Contract.

City work site inspections will only be conducted Monday through Thursday from 7AM to 3:30PM, excluding City Holidays. Any inspections outside of these hours shall be requested at least three (3) days prior, must be approved by the Project Manager, and all costs associated with the inspections shall be paid by the Contractor.

## **5-13 INSPECTION**

The inspection of the Work does not relieve the Contractor of the obligation to fulfill all Contract requirements. The purpose of inspection is not to assure Contractor that all of the Work is meeting all of the Contract requirements.

All work and materials furnished pursuant to the Contract shall be subject to inspection and approval by the City. The Contractor shall provide the City and Inspectors with access to the Work during construction and shall furnish every reasonable facility and assistance for ascertaining that the materials, equipment and the workmanship are in accordance with the requirements and intent of the Contract. Any work, materials, or equipment not meeting the requirements and intent of the Contract will be rejected, and unsuitable work, equipment or materials shall be made good, notwithstanding the fact that such work, materials or equipment may have been previously inspected or approved and /or payment may have been made. The Contractor shall be solely responsible for any costs associated with the removal of any defective work, equipment or materials discovered during the inspection and the complete cost of reconstruction.

Unless authorized in writing by the City, any work done in the absence of an Inspector, whether completed or in progress, shall be subject to inspection. The Contractor shall furnish all tools, labor, materials, access facilities, and other facilities necessary to allow such inspection, even to the extent of uncovering or taking down completed portions of the Work. The Contractor shall pay all costs incurred, whether or not any defective work is discovered. The Contractor shall also be solely responsible for any costs associated with the removal of any defective work discovered during the inspection and the complete cost of reconstruction.

Reexamination of any part of the Work may be ordered by the City, and such part of the Work shall be uncovered by the Contractor. The Contractor shall pay the entire cost of such uncovering, reexamination, and replacement if the reexamined work does not conform to the Contract.

The Contractor shall notify the City of the time and place of any factory tests and submit test procedures for approval thirty (30) Calendar Days in advance for any tests that are required by the Contract. The Contractor shall report the time and place of preparation, manufacture or construction of any material for the Work, or any part of the Work, that the City wishes to inspect. The Contractor shall give five (5) Working Days' notice in advance of the beginning of work on any such material or of the beginning of any such test to allow the City to make arrangements for inspecting and testing or witnessing.

#### **5-14 QUALITY OF MATERIALS AND WORKMANSHIP**

Unless otherwise allowed or required by the Special Provisions, all equipment and materials shall be new and of a quality at least equal to that specified. All workmanship shall also be of the highest quality. When the Contractor is required to furnish equipment, materials or manufactured articles or shall do work for which no detailed specifications are set forth, the equipment, materials or manufactured articles shall be of the best grade in quality and workmanship obtainable in the market. If not ordinarily carried in stock, the articles shall conform to the usual standards for first-class materials or articles of the kind required. The work performed shall secure the best standard of construction and equipment of the Work as a whole or in part.

Materials shall be furnished in sufficient quantities and at such times to ensure uninterrupted progress of the Work. All required spare parts shall be delivered in new condition, not in a used or unknown condition, and with any certificates required. Materials, supplies, and equipment shall be stored properly and protected as required. The Contractor shall be entirely responsible for damage or loss by weather or other causes.

#### **5-15 SUBSTITUTIONS**

Certain materials, articles, or equipment may be designated in the Contract by brand or trade name or manufacturer together with catalog designation or other identifying information. Substitute material, article, or equipment which is of equal quality and of required characteristics for the intended purpose may be proposed for use, provided the Contractor complies with the requirements of the following paragraphs.

##### **5-15.01 Written Request**

The Contractor shall submit any request for substitution in writing no later than thirty (30) Calendar Days after the award of the Contract.

##### **5-15.02 Documentation**

If requested by the City, a proposal for substitution must be accompanied by complete information and descriptive data, including cost of operation, cost of maintenance, and physical requirements necessary to determine the equality of offered materials, articles, or equipment.

The Contractor shall also submit such shop drawings, descriptive data, and samples as

requested. The burden of proof of comparative quality, suitability, and performance of the offered proposal shall be upon the Contractor. The determination of equal quality, suitability, and performance shall be at the sole discretion of the City. The City will examine such submittals with reasonable promptness. If the City rejects the request for such substitution, then one of the particular products designated by brand name in the Contract shall be furnished. Acceptance of substitution by the City shall not relieve the Contractor from responsibility for deviations from the Plans and Specifications or from responsibility for errors in submittals. Failure by the Contractor to identify deviations in the request material from the Plans and Specifications shall void the submittal and any action taken thereon by the City.

Changes required for proper installation and fit of substitute materials, articles or equipment, or because of deviations from the Contract shall not be made without the written consent of the City and shall be made by the Contractor without additional cost to the City. The Contractor shall pay the costs of design, drafting, architectural or engineering services and alterations of the construction required to accommodate any Contractor substitution or construction error to maintain the original function and design.

#### **5-16 PREPARATION FOR TESTING - Not Applicable**

Intentionally Left Blank.

#### **5-17 MATERIALS SAMPLING AND TESTING – Not Applicable**

Intentionally Left Blank.

#### **5-18 APPROVAL OF MATERIALS OR EQUIPMENT**

##### **5-18.01 Sources Of Supply**

The City's approval at the source of supply may be required prior to procurement. Such approval shall not prevent subsequent disapproval or rejection of materials or equipment by the City if the quality is less than required by the Contract.

##### **5-18.02 Plant Inspection**

The City assumes no obligation to inspect materials or equipment at the source of supply. The Contractor is responsible for incorporating satisfactory materials and equipment into the Work, notwithstanding any prior inspections or tests.

The City will inspect materials or equipment at the source if the Contractor submits a written request and if the City deems the inspection necessary. The Contractor and the supplier will cooperate with and assist the City while performing the inspection. The City shall have access to all production areas of the material or equipment source or place of manufacturing.

#### **5-19 PROVISIONS FOR EMERGENCIES**

The City may provide necessary labor, material and equipment to correct any emergency resulting from the Contractor's operation including noncompliance with the Contract, public convenience, safety, traffic control, and protection of Work, persons, environment, and property. The nature of the emergency may prevent the City from notifying the Contractor prior to taking action. The costs of such labor, material, and equipment shall be borne by the Contractor and will be deducted from

progress payments.

The performance of such emergency work under the direction of the City shall not relieve the Contractor from any damages resulting from the emergency.

## **5-20 RIGHT TO RETAIN IMPERFECT WORK**

If any portion of the work done or materials or equipment furnished under the Contract shall prove defective or not in accordance with the Contract, and if the defect in the work, materials or equipment is not of sufficient magnitude or importance to make the work, materials or equipment dangerous or undesirable, or if the removal of such work, materials or equipment is impracticable or will create conditions which are dangerous or undesirable, the City shall have the right and authority to retain the work, materials or equipment instead of requiring it to be removed and reconstructed or replaced. Progress payment deductions will be made as described in Section 8-9, "Deductions for Imperfect Work", of these General Conditions.

## **5-21 REMOVAL OF REJECTED MATERIALS OR WORK**

The Contractor shall remove all rejected or condemned materials, equipment or structures brought to or incorporated in the Work within two (2) Working Days of the City's written directive. No such rejected or condemned materials or equipment shall again be offered for use in the Work. The Contractor shall, at the Contractor's expense, bring into Contract compliance all rejected material, equipment or work in a manner acceptable to the City.

The City may bring into Contract compliance the rejected material or equipment if the Contractor fails to comply with this Section. All costs shall be borne by the Contractor and will be deducted from the Progress Payment.

## **5-22 TEMPORARY SUSPENSION OR DELAY OF WORK**

The City has the authority to suspend or delay the Work, wholly or in part, for any period the City deems necessary. The Contractor shall immediately comply with the City's written directive to suspend or delay the Work. The suspended or delayed work shall be resumed only when conditions are favorable or methods are corrected, as ordered or approved in writing by the City. Public safety and convenience must be maintained throughout the suspension or delay in accordance with Sections 6-12, "Public Convenience and Safety", and 6-13, "Public Safety and Traffic Control", of these General Conditions.

Delays due to suspension of work shall be classified as Inexcusable or Excusable Delays in accordance with Section 7-12, "Delays", of these Specifications. Such suspension shall not relieve the Contractor of the Contractor's responsibilities as described in the Contract.

## **5-23 TERMINATION OF CONTRACT**

### **5-23.01 Reasons for Termination**

The City reserves the right to terminate the Contract or the Contractor's control over the Work for any of the reasons listed below.

#### **5-23.01.A Termination for Convenience**

The City may at any time and for any reason terminate the Contract or the Contractor's performance of the Work, in whole or in part.

If the Contract or the Contractor's control over the Work is terminated for cause and if it is later determined that the termination for cause was wrongful, such termination for cause automatically shall be converted to and treated as a termination for convenience. In such event, the Contractor shall be entitled to receive only the amount payable under Section 5-23.04 of these General Conditions, and the Contractor specifically waives any claim for any other amounts or damages, including any claim for consequential damages or lost profits.

### **5-23.01.B Termination for Cause**

The City may terminate the Contract or the Contractor's control over the Work and so notify the Contract and the Contractor's sureties for the following causes:

- The Contractor is adjudged bankrupt or makes an assignment for the benefit of the Contractor's creditors, or if a receiver is appointed because of the Contractor's insolvency.
- The City has made a determination that the Contractor will be unable to complete the Work on or before the completion date as adjusted by Change Order, or the Contractor has not completed the Work on or before the completion date as adjusted by Change Order.
- The Contractor abandons the Work.
- The Work or any portion is sublet or assigned without the City's consent.
- The rate of progress is not in accordance with the Contract.
- Any portion of the Work is unnecessarily delayed.
- The Contractor willingly violates any terms or conditions of the Contract.
- The Contractor does not supply sufficient materials or properly skilled and staffed labor.
- The Contractor fails to promptly pay its Subcontractors.
- The Contractor disregards laws, ordinances, or City orders.
- The Contractor fails to correct defective work in response to defective work notices.
- The Contractor fails to comply with written directives.

### **5-23.02 Termination After Contract Time**

In addition to any other rights it may have, the City may terminate the Contract or the Contractor's right to proceed at any time after the Contract Completion Date, as adjusted by Change Order. Upon such termination, in addition to the Contractor's other obligations under the Contract, the Contractor shall not be entitled to receive any compensation after such termination until the Work is completed, and the Contractor shall be liable to the City for liquidated damages for all periods

of time from the Contract Completion Date, as adjusted by Change Order, until the date of completion, as well as for all losses incurred by the City in completing the Work, as set forth in Section 5-23.04 of these General Conditions.

### **5-23.03 Notice of Termination; City Completion**

If grounds exist under Sections 5-23.01B or 5-23.02 above, then the City may issue to the Contractor and its sureties a Notice of Intent to Terminate the Contract or the Contractor's Control Over the Work for Cause. The Notice shall state the grounds for termination for cause that exist and demand that Contractor cure the grounds, or make satisfactory arrangement for cure of the grounds, within ten (10) days of the date of the Notice, or else the City will terminate the Contract or the Contractor's control over the Work.

If the Contractor fails to cure the grounds, or make satisfactory arrangement for cure of the grounds, stated in the Notice of Intent to Terminate within ten (10) days of the date of the Notice of Intent to Terminate, the City may give written Notice of Termination for Cause to the Contractor and the Contractor's sureties that the Contract, or a portion of the Contract, has been terminated and/or that the Contractor's control over the Work, or a portion of the Work, has been terminated for the reasons stated in the Notice of Termination. The Notice shall also demand that Contractor's surety take over and perform the Work through Completion. The Contractor's surety shall then have the right to take over and perform the Work through Completion. The City may take over the Work through Completion at the Contractor's and surety's expense if the surety does not commence performance within thirty (30) Calendar Days from the date of mailing the Notice of Termination or if immediate resumption of the Work is necessary to avoid significant additional cost.

If the City is forced to take over the Work, it may prosecute the same to completion by day labor, by contract or by any other method it may deem advisable, for the account and at the expense of the Contractor and its sureties, and the Contractor and its sureties shall be liable to the City for any excess costs, including management, supervision, and design support, occasioned thereby. In such event, the City may, without liability, take possession of and utilize in completing the Work, the Contractor's materials whether stored at the Site or elsewhere, that are necessary for completion. The City may also take possession of and use all or any part of the Contractor's tools, equipment and appliances on the premises to complete the Work. The City assumes the responsibility for returning such equipment in as good condition as when it was taken over, reasonable wear and tear excepted. The items shall be returned to the Contractor when the Work is complete or sooner, at the City's discretion. The City agrees to pay a reasonable amount for the use of such tools and equipment.

The Contractor hereby assigns to the City all of its interest in orders and/or contracts existing at the time of termination. The assignment of said orders and/or contracts shall be effective upon notice of acceptance by the City in writing, and only as to those orders and/or contracts which the City designates in writing.

Whenever the Contract or the Contractor's control over the Work is terminated for cause, the Contractor and its sureties and shall be liable to the City for liquidated damages for all periods of time from the Contract Completion Date, as adjusted by Change Order and whether or not the termination date precedes or post-dates the adjusted Contract Completion Date, until the date of completion, as well as for all losses incurred by the City in completing the Work, as set forth in Section 5-23.04 of these General Conditions.

Immediately upon receipt of a Notice of Termination for Cause or for Convenience, except as otherwise directed in writing by the City, the Contractor shall:

1. Stop work under the Contract on the date and to the extent specified in the Notice of Termination.
2. Place no further orders or subcontracts for materials, services, or facilities except as necessary to complete the portion of the Work that is not terminated.
3. Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination.
4. Assign to the City, in the manner, at the times, and to the extent directed by the City, all of the rights, titles, and interests of the Contractor under the orders and subcontracts so terminated. The City shall have the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
5. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts with the approval or ratification of the City. The City's approval or ratification shall be final.
6. Transfer title to the City, and deliver in the manner, at the times, and to the extent directed by the City, fabricated or unfabricated parts, work in process, completed work, supplies, other material produced as a part of, or acquired in connection with, the terminated work, and the completed or partially completed drawings, information, and other property that, if the Contract had been completed, would have been submitted to the City.
7. Sell, in the manner, at the times, to the extent, and at the price that the City directs or authorizes, any property of the types referred to in Item 6 of this Section (Section 5-23.03). The Contractor is not required to extend credit to any purchaser, and may acquire any such property under the conditions prescribed and at a price approved by the City. The proceeds of any such transfer or disposition shall be used to reduce any payments made to the Contractor under the Contract or be credited to the cost of the work covered by the Contract or paid as the City directs.
8. Complete performance of the Work not terminated by the Notice of Termination.
9. Take necessary action, or as the City directs, to protect and preserve the property related to the Contract in which the City has an interest.

#### **5-23.04 Payments to Contractor Upon Termination of Contract**

In the event of a termination for convenience, the Contractor and the City may agree upon an amount paid to the Contractor for the total or partial termination of the Contract or of the Contractor's control over the Work. The amount may include those items specified in Chapter 9, "Changes and Claims", of these General Conditions. However, such agreed amount shall not exceed the Total Contract Price, reduced by the amount of payments already made and the Contract price of work not terminated. The Contract shall be amended accordingly, and the Contractor shall be paid the agreed amount.

If the Contractor and the City fail to agree on the amount to pay the Contractor because of the termination for convenience under this Section, the City shall determine the amount due the Contractor.

In the event of a termination for cause, the Contractor is not entitled to receive any portion of the amount to be paid under the Contract until it is fully completed. After completion, if the unpaid balance exceeds the sum of the amount expended by the City in finishing the work, plus all damages sustained or to be sustained by the City, including, without limitation, legal expenses, City forces, administration and management, direct and indirect, plus liquidated damages, plus any unpaid claims on account of labor, materials, tools, equipment, or supplies contracted for by the Contractor for the Work, provided that sworn statements of said claims shall have been filed as required by Chapter 9, "Changes and Claims", of these General Conditions, the excess not otherwise required by the Contract Documents to be retained shall be paid to the Contractor. If the sum so expended to complete, plus the City's damages as described herein, plus liquidated damages, plus unpaid claims as described herein exceeds the unpaid balance of the Total Contract Price, the Contractor and the Contractor's surety are liable to the City for the amount of such excess.

#### **5-23.05 Completion Not a Waiver of City Rights**

No act by the City before the Work is finally accepted shall operate as a waiver or stop the City from acting upon any subsequent event, occurrence or failure by the Contractor to fulfill the terms and conditions of the Contract. The rights of the City pursuant to this Section 5-23 and all of its subsections are in addition to all other rights of the City pursuant to the Contract, and at law or in equity.

#### **5-23.06 Survival of Obligations**

No termination of this Contract or of the Contractor's control over the Work shall excuse or otherwise relieve the Contractor of its responsibilities under the Contract with respect to any Work performed prior to the date of termination, including, without limitation, its obligation to perform the Work in a good and workmanlike manner, free of defects, and in accordance with the Contract, its warranty obligations with respect to the Work, and its obligation to make all payments due. All of the Contractor's responsibilities under the Contract with respect to the Work performed prior to the date of termination shall survive any termination.

### **5-24 TERMINATION OF UNSATISFACTORY SUBCONTRACTS**

When any portion of the Work subcontracted by the Contractor is not prosecuted in a satisfactory manner, the Contractor shall immediately terminate the subcontract upon written notice from the City. The Subcontractor shall not again be employed for any portion of the work on which the Subcontractor's performance was unsatisfactory. Substitution of a new subcontractor shall be accomplished in accordance with California Code.

### **ARTICLE 6 – RESERVED (INTENTIONALLY LEFT BLANK)**

### **ARTICLE 7 – RESERVED (INTENTIONALLY LEFT BLANK)**

### **ARTICLE 8 – MEASUREMENT AND PAYMENT**

## **8-01 BASIS AND MEASUREMENT OF PAYMENT QUANTITIES**

It is the Contractor's responsibility to measure and/or compute the quantities of work completed, subject to verification by the City, under the terms of the Contract. In computing quantities, the length, area, solid contents, number, weight, or time as specified in the Contract or the Schedule of Values shall be used.

### **8-01.A Unit Price Contracts**

Payment for all work bid at a price per unit of measurement will be based upon the actual quantities of work as measured upon completion. The Estimated Quantities provided in the Bid Documents are for comparative bidding only. The City does not express or imply that the actual amount of work or materials will correspond to the Estimated Quantities. Contractor shall make no claim nor receive any compensation for anticipated profits, loss of profit, damages, or any extra payment due to any difference between the amount of work actually completed, or materials or equipment furnished, and the Estimated Quantities.

### **8-01.B Lump Sum or Job Contracts**

Progress Payments will be based on the Schedule of Values prepared by Contractor and approved by the City prior to acceptance of the first progress payment request (see Section 8.05, "Progress Payment Procedures", below). If requested by the City, Contractor shall furnish full copies of subcontracts showing actual costs.

### **8-01.C Payment for Mobilization**

Mobilization shall consist of preparatory work and operations, including, but not limited to, those necessary for the movement of personnel, equipment, supplies, and incidentals to the site; for the establishment of all offices, buildings, and other facilities necessary for the Work; and for all other work and operations which must be performed, or costs incurred, prior to beginning the Work.

Payment for mobilization will be as follows:

1. Mobilization Not a Pay Item

When the Contract does not include a separate pay item for mobilization, full compensation for mobilization will be included in the Contract lump sum price or in the prices paid for the various items of work in a unit price contract, and no additional compensation will be paid.

2. Mobilization a Pay Item

When the Contract or accepted Schedule of Values includes a separate item for mobilization, payment for mobilization will include full compensation for the furnishing of all labor, materials, tools, equipment, administrative costs, and incidentals for mobilization.

The City will pay no greater than five percent (5%) of the Contract Sum as a separate pay item for mobilization. In the event Contractor submits a mobilization pay item greater than five percent (5%) of the Contract Sum, the City will pay any excess mobilization amount with the final progress payment.

Absent City approval, the City will not pay additional mobilization compensation for work under a Change Order.

Payment for mobilization shall be subject to retention per Section 8.07, "Retention", of these General Conditions.

## **8-02 SCOPE OF PAYMENT**

### **8-02.A General**

Compensation under the terms of the Contract shall be full payment for the Work, including loss or damage arising from the nature of the Work, action of the elements, or unforeseen difficulties encountered during the prosecution of the Work and until its final acceptance; and all risks connected with the prosecution of the Work.

### **8-02.B Unit Price Contract**

Progress payments will be made based upon the unit price bid and measured quantities for work completed, plus work completed on approved Change Orders.

### **8-02.C Lump Sum or Job Contract**

Progress payments will be based upon the approved Schedule of Values for work completed, plus work completed on approved Change Orders.

### **8.02.E Allowances**

Allowances may be included in the Bid Form for materials and/or work that may be added during the course of the Contract. The Allowance may be used in whole, in part, or not at all as determined by the City. Whenever costs of the Work included in the Allowance item are more or less than the specified Allowance amount, the Contract Sum will be adjusted accordingly by Contract Change Order. Contractor shall make no claim nor receive any compensation for anticipated profits, loss of profit, damages, or any extra payment due to any difference between the amount of work actually completed, or materials or equipment furnished, and the Estimated Quantities for the Allowance.

### **8.02.F Payment for Material Not Incorporated in the Work**

No progress payments will be made for materials and equipment not incorporated in the Work, unless specifically set forth in the Special Provisions or authorized by the City.

## **8-03 WORK TO BE DONE WITHOUT DIRECT PAYMENT**

Compensation for any portion of the Work not specifically identified in the Bid Form or Schedule of Values is understood to be included in the price for other items, unless specified in the Special Provisions as extra work. No additional compensation is allowed for additional shifts or premium pay necessary to ensure that the Work is completed within the time limits specified in the Contract.

## **8-04 PAYMENT FOR USE OF COMPLETED PORTIONS OF WORK**

If the City occupies or uses a portion of the Project before it accepts Completion of the Work, Contractor will only be compensated in accordance with this Article 8. No final payment shall occur for a limited portion of the work.

## **8-05 PROGRESS PAYMENT PROCEDURES**

No progress payment will be made when, in the judgment of the City, the Work is not proceeding in accordance with the provisions of the Contract or when the total work done since the last progress payment amounts to less than one thousand dollars (\$1,000). Unless otherwise agreed to at the preconstruction meeting or identified in the Special Provisions, Contractor shall submit in writing monthly for City review an estimate of the total amount and value of work done, including that done under approved Change Orders, and the acceptable materials furnished and incorporated in the work completed through the last day of the previous pay period. The Bid Form or Schedule of Values shall be used to prepare a progress payment request for the items, or portions of items, of the Work completed during the monthly progress period.

Any progress payment request must be accompanied by (1) a conditional lien release in the form prescribed by law warranting that title to all work, labor, materials and equipment covered by the request is free and clear of all liens, claims, security interests or encumbrances; and (2) unconditional lien releases for all work through the prior progress payment lien releases. If Contractor fails to submit these documents with the progress payment request, then the City, in its sole discretion, may withhold part of the progress payment or reject the progress payment request with an explanation in writing of the reason. Contractor may resubmit the progress payment request with the required documents. The City has no obligation to process the progress payment request or make a progress payment if Contractor fails to provide these required documents.

If the required documents are submitted with the progress payment request, then the City shall review any progress payment request submitted by Contractor to determine its accuracy and validity. Any payment request determined not to be a proper payment request suitable for payment shall be returned to Contractor as soon as practicable, but not later than seven days, after receipt, along with a document stating the reasons why the payment request is not proper. Once the City has an undisputed and properly submitted payment request from Contractor, the progress payment shall be made within 30 days of its submission.

Once the City agrees with Contractor as to the amount of Work completed as of the date of the progress payment request, the City shall deduct the following from the estimated total value of that amount of Work: All previous payments, the retention previously withheld pursuant to Section 8-07, "Retention", of these General Conditions, and other withholdings as permitted by the Contract. The City will then approve the balance for payment to Contractor, with retention being withheld from that approved payment as described in Section 8-07 of these General Conditions.

The payment of a progress payment or the acceptance thereof by Contractor does not constitute acceptance by the City of any portion of the Work, and does not reduce Contractor's liability to replace unsatisfactory work, material, or equipment for any or the Work, whether or not completed. Approval by the City of a progress payment request that contains an inadvertence or error by Contractor will not release Contractor or Contractor's surety from damages arising from the work covered by the approved payment request or from enforcement of every provision of the Contract. The City also has the right to correct any error made in any Progress Payment and may withhold as much payment as necessary to correct the error in later progress payments.

## **8-06 INSPECTION AND PROGRESS PAYMENTS NOT A WAIVER OF CONTRACT**

## **PROVISIONS**

No inspection, order, measurement, approval, modification, payment, acceptance of work or material (including, but not limited to, acceptance of the entire Work), time extension, or possession of the Work or any part thereof shall be a waiver of any of the terms and conditions of the Contract, the powers reserved by the City, or any right of the City to damages or to reject the Work in whole or part. No breach of this Contract shall be construed a waiver of any other or subsequent breach. All remedies provided in the Contract shall be cumulative and shall be in addition to all other rights and remedies that may exist at law or in equity.

## **8-07 RETENTION**

### **8-07.A Retention to Ensure Performance**

The City may retain five percent (5%) of each approved progress payment to ensure performance under the Contract. The parties acknowledge that some of the purposes of retention under this Contract are to encourage Contractor to reach Completion quickly, to ensure that Contractor completes the Work in its entirety, and to provide funds from which the City may withhold for disputes, costs and claims under Section 8-08, "Withholdings/Denial of Progress Payment Request", of these General Conditions.

Retention will be held by the City until at least thirty-five (35) Calendar Days, but no more than sixty (60) Calendar Days after recording of the Notice of Completion. However, the City may continue to withhold some or all of the retention beyond 60 days to the extent that any disputed amounts or Stop Payment Notices or liquidated damages exist, in which case the City may withhold 150% of the disputed amount, 150% of the amount of liquidated damages, and 125% or more of outstanding Stop Payment Notices.

### **8-07.B Non-Compliance**

In addition to the five percent (5%) payment retention discussed above, the City may also retain portions or all of a progress or final payment for Contractor's noncompliance with the Contract in an amount deemed appropriate by the City.

### **8-07.C Substitution of Securities**

At the request and expense of Contractor, in accordance with Public Contract Code Section 22300, in lieu of the City withholding the five percent (5%) retention defined in Section 8-07 of these General Conditions, Contractor may: (1) substitute a deposit of securities at least equivalent to the retention to be paid, or (2) request that the City pay the withheld retention directly to an escrow agent. If Contractor elects either option, Contractor and the City shall enter an escrow agreement in the exact form set forth in Public Contract Code Section 22300.

## **8-08. WITHHOLDINGS/DENIAL OF PROGRESS PAYMENT REQUEST**

The City may deny a progress payment request and/or withhold amounts from a progress payment and/or withhold a release of retention for any of the following reasons:

- Stop payment notices filed pursuant to Civil Code Sections 9350 et seq., including but not limited to a reasonable amount to provide for the City's reasonable cost (including but not limited to attorneys' fees and experts' fees) of litigation based on the stop notice;

- Fines levied against Contractor or the Work by the City or other entities;
- Third party claims against Contractor or the City arising from the acts or omissions of Contractor or its subcontractors;
- Defective Work not remedied;
- Previous overpayments to Contractor;
- Failure by Contractor to make payments properly to employees or Subcontractors for labor, materials, or equipment;
- Any portion of the Work the City elects to retain as imperfect in lieu of requiring replacement;
- The Work may not be completed for the unpaid balance of the Contract sum;
- The Work may not be completed within the Contract Time and the City incur actual and/or liquidated damages;
- Review of excessive resubmittals and excessive inspections or tests;
- Replacement of survey stakes and excessive survey work;
- Damage to the City or another contractor;
- Failure by Contractor to perform the Work in accordance with the Contract;
- Failure by Contractor to submit the necessary documents with a progress payment request;
- Cost of insurance purchased by the City due to cancellation or reduction of coverage of Contractor's insurance;
- Failure by Contractor to make proper submissions under the Contract;
- Any violation or non-compliance with Contractor's legal responsibilities, including, without limitation, withhold for wages adjustments in accordance with the California Labor Code and any fines incurred by the City as a result of Contractor's actions; and/or
- Any amounts otherwise necessary to protect the City's interests and/or compensate the City for past, present and future damages.

In addition to withholding a reasonable amount based on the above grounds, the City may withhold an additional 50% of that reasonable amount from a progress payment or release of retention; except that it may withhold an additional 25% or more of the Stop Payment Notice amount to provide for its reasonable cost (including but not limited to attorneys' fees and experts' fees) of any litigation based on a Stop Payment Notice.

If, on Completion or termination of the Contract or termination of Contractor's control over the Work, sums withheld from Contractor are insufficient to cover the City's charges against Contractor, the City has the right to recover the balance from Contractor or Contractor's surety.

## **8-09 DEDUCTIONS FOR IMPERFECT WORK**

For any portion of imperfect Work, materials or equipment the City elects to retain, the City will deduct from a Progress Payment a reasonable amount to represent the decreased or lost value to the City.

## **8-10 LIQUIDATED DAMAGES FOR DELAY**

If the Work is not completed by Contractor in the time specified in the Contract Documents, or within any period of extension authorized pursuant to these General Conditions, Contractor acknowledges and admits that the City will suffer damage, and that it is impracticable and infeasible to fix the amount of actual damages. Therefore, it is agreed by and between Contractor and the City that Contractor shall pay to the City as fixed and liquidated damages, and not as a penalty, the sum specified in the Contract Documents for each Calendar Day of delay until the date of Completion, and that both Contractor and Contractor's surety shall be liable for the total amount thereof, and that the City may deduct Liquidated Damages from any monies due or that may become due to Contractor. If it appears during the course of construction that Contractor is behind schedule and the imposition of liquidated damages is likely, or if liquidated damages begin to accrue prior to the time for final payment, the City may, at its discretion, withhold the amount accrued from any progress payment that would otherwise be due. This right to withhold funds is in addition to the City's other rights under the Contract Documents.

This liquidated damages provision shall apply to all delays of any nature whatsoever, save and except only delays found to be excusable or time extensions granted by the City.

Pursuant to Government Code Section 4215, Contractor shall not pay fixed and liquidated damages for delay in completing the Project caused by the failure of the City or the utility district(s) facilities located on the Project site to provide for removal or relocation of such facilities.

Payment by the City of any progress payments after liquidated damages have accrued shall not constitute a waiver by the City of its right to claim liquidated damages.

If the Contract, Contractor's control over the Work or Contractor's right to proceed is terminated for cause, then Contractor shall be liable to the City for liquidated damages for all periods of time from the scheduled Contract Completion Date at the time of such termination, as that date may be adjusted by any extensions of time to which Contractor is entitled, until the Date of Completion.

## **8-11 FINAL ESTIMATE AND PAYMENT**

Upon notice that the City has accepted the Work and the Contractor has submitted all required close-out documents, the Contractor shall provide a proposed final payment request, segregated as to Contract item and Change Order work. Contractor shall submit all previously unsubmitted documents required by the Contract with the request; otherwise the City has the right to reject the request and require submission of these documents.

The City will review the properly submitted proposed final payment request and, after withholding for all issues as permitted by Sections 8-08, 8-09 and 8-10 of these General Conditions and making other corrections as necessary, shall return its approved final payment request as modified, within fifteen (15) Calendar Days of receipt. All progress payments shall be subject to correction in the final payment. If Contractor fails to file a final payment request within the time allotted, the City may create and approve one based on the best information available to it.

Within fifteen (15) Calendar Days after the approved final payment request is submitted to Contractor, Contractor shall submit back to the City a written approval of said request or a written statement of exceptions to be considered a "closeout" claim. Contractor's statement of exceptions shall be in sufficient detail for the City to ascertain the basis and amount of the exceptions. Not later than thirty (30) calendar days after the approved final payment request is submitted to the City, Contractor shall comply with Section 9-17 of these General Conditions for any exceptions it intends

to pursue as a claim, and provided it has complied with all other contract requirements for notice and presentation of claims, or its claim(s) will be deemed waived.

Any claim of Contractor or Subcontractors or suppliers with respect to the performance or breach of the Contract or any alterations thereof (except for payment of the balance of the Contract Sum as set forth in the final payment request) not specifically set forth in the statement of exceptions, is waived by Contractor. If Contractor fails to file a statement of exceptions within the time allowed, Contractor waives its right to submit a statement of exceptions and the approved final payment request will be deemed to as accepted and approved by Contractor.

The City shall process the final payment and a release of retention in accordance with the approved final payment request. The payment of undisputed sums due for the final payment, and excluding any sums withheld for Stop Payment Notices, shall be made within thirty-five (35) days of Contractor's acceptance of the approved final payment request or within sixty (60) days after the recording of the Notice of Completion, whichever is later. The release of retention shall be made in accordance with Section 8-07 of these General Conditions. If Contractor submits a timely statement of exceptions, then the City shall process these payments as a semifinal action; otherwise the payment shall be considered final.

The City shall respond in accordance with the provisions of Section 9-19, "Engineer's Decision", of these General Conditions, with its final decision regarding the claims and exceptions set forth by Contractor. Should the City's final decision grant some or all of Contractor's claims or exceptions, then to the extent necessary a supplemental final payment and/or supplemental final release of retention shall be processed within thirty (30) days.

Any claim or exception set forth by Contractor for which Contractor did not follow the required claim procedures in the Contract Documents shall be disallowed; by failing to follow the required claim procedures prior to Contractor's written statement of claims and exceptions, Contractor will have waived all rights to compensation (whether money or time) related to such claim or exception. If not already expired, the running of time for presenting a Government Code claim (see Government Code sections 900 et seq.) shall be tolled from the time of Contractor's timely statement of exceptions until the City's final decision on the statement of exceptions.

## **8-12 FINAL PAYMENT TO TERMINATE LIABILITY OF THE CITY**

If Contractor fails to timely submit a statement of exceptions, Contractor's acceptance of the final payment and final release of retention shall release the City and the City's officers, officials, agents, employees, members, volunteers, affiliates, and their duly authorized representatives from all claims or liability on account of all Work performed or any alterations thereof. If Contractor timely submits a statement of exceptions, Contractor's acceptance of the semifinal payment and semifinal release of retention shall release the City and the City's officers, officials, agents, employees, members, volunteers, affiliates, and their duly authorized representatives from all claims or liability on account of Work performed or any alterations thereof, except unresolved items set forth in the statement of exceptions.

## **8-13 DISPUTED PAYMENTS**

The City will decide disputes regarding payments under the Contract according to the procedures set forth in Article 9, "Changes and Claims", of these General Conditions. The decision of the City will be final.

## **ARTICLE 9 - CHANGES AND CLAIMS**

### **Sections 9-1 through 9-13– Reserved (Intentionally Left Blank)**

#### **9-14 CONTRACT CHANGE ORDER**

The City will issue a Change Order if a change to the Total Contract Price or Contract Time is necessary. The Contractor shall not be entitled to any adjustments in either Total Contract Price or Contract Time for changes performed before receipt of a written directive requiring the changes or Change Order approved by the City. Adjustments in Contract Time or Total Contract Price for changes performed will not be made until a Change Order is approved by the City. A Change Order is generally comprised of one or more Field Directives or other written orders or directives, and contains a summary of each change and changes to the Total Contract Price and Contract Time.

#### **9-15 ACCEPTANCE OF ORDERS FOR CHANGES**

A Change Order that is substantially in agreement with the Contractor's Proposed Change Order, and/or the Contractor's written agreement of a Change Order, Field Directive or other written directive, will constitute the Contractor's final and binding agreement to the provisions of the Change Order, Field Directive, or other written directive, and a waiver of all claims in connection therewith, whether direct or consequential in nature, including those of any Subcontractors or suppliers. If the Contractor disagrees with any Change Order, Field Directive, or other written directive, the Contractor may submit a notice of potential claim to the City in accordance with Section 9-17, "Notice of Potential Claim", of these General Conditions. Disagreement with the provisions of a Change Order, Field Directive, or other written order will not relieve the Contractor of the Contractor's obligations under the Contract.

#### **9-16 DISPUTE REGARDING CONTRACT REQUIREMENTS**

If the Contractor and City fail to agree whether or not any work or other matter is within the scope of the Contract, the Contractor shall nevertheless immediately perform such work upon receipt of a written Field Directive or other written order. If Contractor disagrees with a decision by the City that any work is within the scope of the Contract, then the Contractor must follow the claims procedures in the Contract, including but not limited to Sections 7-13, 8-11, 9-17 and 9-18 of these General Conditions.

The Contractor shall not stop performing the Work pending resolution of a dispute, unless so ordered in writing by the City.

#### **9-17 NOTICE OF POTENTIAL CLAIM**

The Contractor shall not be entitled to payment of any additional compensation (whether money or time) for any cause, including any disagreement, protest, or change, any act or failure to act by the City, or the happening of any event, thing or occurrence, unless the Contractor has given the City due advance written notice of potential claim as hereinafter specified. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional monetary compensation and/or time will or may be due, the nature of the costs and/or time involved, and, insofar as possible, the amount of the potential claim.

The Contractor shall promptly provide a written Notice of Potential Claim to the City upon

discovery of concealed or unknown conditions or upon any disagreement, protest, situation, event, or occurrence that may result in a claim, including but not limited to changes in work and delays. The Notice shall be submitted no more than five (5) Working Days after the discovery or occurrence of any event that may be the basis for a claim for additional compensation or additional time.

Failure to timely submit the Notice waives any Claim that Contractor may otherwise have had the right to submit based on the underlying occurrence or event.

## **9-18 SUBMISSION OF CLAIMS**

Claims shall be subject to the requirements of Public Contract Code sections 20104 *et seq.* and 9204. A summary of those provisions is set forth below. A waiver of the rights granted by the referenced statutes is void and contrary to public policy, provided, however, that (1) upon receipt of a Claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) the City may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the statutory requirements, so long as the contractual provisions do not conflict with or otherwise impair the statutory timeframes and procedures. To the extent that the summary below is inconsistent with any requirement of those statutes, the statutes shall control. The terms below are intended to be consistent with the governing statutes, and any modifications shall be understood as lawful modifications or additions to the statutory requirements if at all possible.

### **9-18.01 Definitions**

“Claim” means a separate demand by the Contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

- (A) a time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.
- (B) payment by the public entity of money or damages arising from work done by, or on behalf of, Contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.
- (C) payment of an amount that is disputed by the City.

“Mediation” means any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation.

“Public works contract” or “public works project” means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

“Subcontractor” means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with the Contractor or is a lower tier subcontractor.

### **9-18.02 Claims Procedure.**

All Claims under this Contract shall be resolved using the following procedure.

**9-18.02.01** The Claim shall be in writing and include the documents necessary to substantiate the Claim as set forth in Section 9-18.03. Unless a different time is stated in the Contract Documents, Claims must be filed not later than thirty (30) Calendar Days after the proposed final payment request is returned to the Contractor by the City. Any Claim shall be certified under penalty of perjury and in compliance with the California False Claims Act, as set forth in Section 9-18.03 below. Failure to include these required certifications will constitute grounds for immediate rejection of the Claim and shall be deemed a waiver and absolute bar of the Claim, including any right to pursue the Claim further.

**9-18.02.02** If a Subcontractor, including a lower tier Subcontractor, lacks legal standing to assert a Claim against the City because privity of contract does not exist, then the Contractor may present a Claim on behalf of such a Subcontractor. A first-tier Subcontractor may request in writing, either on its own behalf or on behalf of a lower tier Subcontractor, that the Contractor present a Claim on behalf of the Subcontractor for work that was performed by the Subcontractor. The Subcontractor requesting that the Claim be presented shall furnish reasonable documentation to support the Claim. Within 45 days of receipt of this written request, the Contractor shall notify the Subcontractor in writing as to whether the Contractor presented the Claim and, if the Contractor did not present the Claim, provide the Subcontractor with a statement of the reasons for not having done so.

**9-18.02.03** Upon receipt of a Claim, the City shall conduct a reasonable review of the Claim. Within 30 days of receipt of the Claim, the City may request, in writing, any additional documentation supporting the Claim or relating to defenses to the Claim that the City may have against the claimant. Where additional information is requested by the City, the time in which the City must respond to a Claim shall be tolled until all requested information is provided. If additional information is thereafter required, then it shall be requested and provided upon mutual agreement of the City and the Contractor.

**9-18.02.04** Within 45 days of receipt of the Claim, as that time may be tolled as provided in Section 9-18.02.03 above, the City shall provide the Contractor with a written statement identifying what portion of the Claim is disputed and what portion is undisputed. Upon receipt of a Claim, the City and the Contractor may, by mutual agreement, extend the time period for a response. Failure by the City to respond to a Claim within the time periods described herein shall result in the Claim being deemed rejected in its entirety. A Claim that is denied by failure of the City to respond shall not constitute an adverse finding with regard to the merits of the Claim or the responsibility or qualifications of the claimant.

**9-18.02.05** Any payment due on an undisputed portion of the Claim shall be processed and made within 60 days after the City issues its written statement. The City shall not fail to pay money as to any portion of a Claim which is undisputed except as otherwise provided in the Contract Documents.

**9-18.02.06** If the claimant disputes the City's written response, or the City fails to respond within the time prescribed, the Contractor may so notify the City, in writing, either within 15 days of receipt of the City's response or within 15 days of the City's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand, sent by registered mail or certified mail, return receipt requested, the City shall schedule a meet and confer conference within 30 days for settlement of the dispute.

**9-18.02.07** Within 10 business days following the conclusion of the meet and confer conference, if the Claim or any portion of the Claim remains in dispute, then the City shall provide the Contractor a written statement identifying the portion of the Claim that remains in dispute and the portion that is undisputed. Failure by the City to provide the written statement within the time periods described herein shall result in the remaining Claim issues being deemed rejected in their entirety. Denial by failure of the City to respond shall not constitute an adverse finding with regard to the merits of the remaining Claim issues or the responsibility or qualifications of the claimant. Any payment due on an undisputed portion of the Claim shall be processed and made within 60 days after the District issues its written statement.

**9-18.02.08** Any remaining disputed portion of the Claim following the meet and confer conference shall be submitted to nonbinding mediation, with the City and the Contractor sharing the associated costs equally. The City and the Contractor shall mutually agree to a mediator within 10 business days after the disputed portion of the Claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the Claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. Unless otherwise agreed to by the City and the Contractor in writing, the mediation conducted pursuant to this Section shall excuse any further obligation under Public Contract Code Section 20104.4 to mediate after litigation has been commenced. This Section does not preclude arbitration if mediation under this Section does not resolve the parties' dispute.

**9-18.02.09** If mediation is unsuccessful, then the Contractor may file a claim as provided in Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code with respect to the parts of the Claim remaining in dispute. For purposes of those provisions, the running of the period of time within which a Claim must be filed shall be tolled from the time the Contractor submits his or her written Claim pursuant to Section 9-18.02.01 until the time that mediation of disputed portions of that Claim is completed. This Section does not apply to tort claims, and nothing in this Section is intended nor shall be construed to change the time periods for filing tort claims or actions specified by Chapter 1 (commencing with Section 900)

and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code.

**9-18.02.10** Amounts not paid in a timely manner as required by this Section shall bear interest at seven percent (7%) per year.

**9-18.02.11** Claims of \$375,000 or less are subject to the following procedures for civil actions filed to resolve the claims:

- (a) The case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of that code. The Civil Discovery Act (Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure) shall apply to any such proceeding, consistent with the rules pertaining to judicial arbitration.
- (b) The parties stipulate that the arbitrator shall be experienced in construction law and shall be paid necessary and reasonable hourly rates of pay not to exceed their customary rate, and such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall these fees or expenses be paid by state or county funds.
- (c) In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, any party who, after receiving an arbitration award, requests a trial *de novo* but does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, pay the attorneys' fees of the other party arising out of trial *de novo*.
- (d) The court may, upon request by any party, order any witnesses to participate in arbitration process.

In any suit filed under Public Contract Code Section 20104.4, the City shall pay interest at the legal rate on any arbitration award or judgment. The interest shall begin to accrue on the date the suit is filed in a court of law.

### **9-18.03 Documentation of Claims by Contractor**

For each Claim, the Contractor shall furnish claim documentation as herein specified.

Contractor shall submit three (3) certified copies of all claim documentation. All claim documentation shall be complete when submitted. The evaluation of the Contractor's claim will be based on City's records and the claim documentation submitted by Contractor.

Claim documentation shall conform to generally accepted auditing standards and shall be in the following format:

1. Introduction and background
2. Issues
  - a. Index of issues
  - b. For each issue:
    - Background
    - Chronology
    - Contractor's position (reason for City's potential liability)
    - Supporting documentation of merit
    - Supporting documentation of damages
3. CPM schedules, as-planned versus as-built, and delay analysis
4. Productivity and damages exhibits
5. Summary of issues and damages

Supporting documentation of merit for each issue shall be cited by reference, photocopies, or explained. Supporting documentation may include, but not be limited to, General Conditions, Technical and other Specifications, Drawings, correspondence, conference notes, shop drawing logs, survey books, inspection reports, delivery schedules, test reports, daily reports, subcontracts, fragmentary CPM schedules, photographs, technical reports, RFIs, Field Directives, and other related records.

Supporting documentation of damages for each issue shall be cited, photocopied, or explained. Supporting documentation may include, but not be limited to, certified detailed labor, materials, equipment, and construction equipment and services costs; purchase orders; invoices; project as-planned and as-built costs; Subcontractor payment releases; quantity reports; other related records; general ledger and any other accounting materials.

Each submission of Claim documentation shall include the following certification, signed in the same manner as the Contract was signed:

Claim Declaration

I, [name of declarant], declare the following:

[Contractor company name] has contracted with the City of Rocklin for the [name of project] project. I am authorized by my employer ( [contractor company name] ) to prepare the attached claim for compensation (in other words, for money and/or time extensions) to the City of Rocklin regarding this project (dated \_\_\_\_\_, 20\_\_\_\_\_, and requesting \$\_\_\_\_\_ and/or \_\_\_\_\_ additional working days), and I did prepare said attached claim. I am the most knowledgeable person at [contractor company name] regarding this claim.

I am aware of all law that relates to this claim, including but not limited to California Penal Code section 72, Government Code sections 12650 et seq. (False Claims Act), and Business and Professions Code sections 17200 et seq. (Unfair Business Practices Act). I am aware that submission or certification of false claims, or other claims that violate law or the contract, may lead to fines, imprisonment, and/or other severe legal consequences for myself and/or [contractor company name].

The attached claim is prepared and submitted in good faith, does not breach the contract between [contractor company name] and the City of Rocklin for this project, does not violate any law, satisfies all provisions of the contract, only contains truthful and accurate supporting data, and only requests an amount that accurately reflects the adjustments to money and time for which I honestly and in good faith believe that the City of Rocklin is responsible under its contract with [contractor company name].

So that I could declare that the statements in this declaration and the attached claim were true and correct, while preparing this declaration and claim I consulted with others (for example, attorneys, consultants, or others who work for [contractor company name]) when necessary to assure myself that said statements were true and correct.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, California.

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[name of declarant]

If the Contractor is unable to support any part of a claim and it is determined that such inability is attributable to falsity of such certification or misrepresentation of fact or fraud by the Contractor, the Contractor shall be liable to the City for three (3) times the amount of damages which the City sustains, plus the cost of civil action, and may be liable to the City for a civil penalty of up to ten thousand dollars (\$10,000) for each false claim.

#### **9-19 ENGINEER'S DECISION**

The Engineer will review the facts of any disputed Claim and may request additional information, evidence, or testimony in accordance with Section 9-18. The Engineer will render a fair, impartial decision based on the Contract, and the evidence submitted by the City and Contractor representatives.

#### **9-20 ALTERNATIVE DISPUTE RESOLUTION**

After all remedies and provisions of the Contract are exhausted, any dispute related to the Work or Contract may be resolved by mediation or arbitration if agreed upon by the parties involved and the City and the Contractor amend the Contract to agree on a form of alternative dispute resolution.

#### **9-21 NO ALTERNATIVE CLAIMS PROCEDURE**

Nothing in the Contract constitutes an agreement for an alternative claim procedure under the provisions of Government Code Section 930.2, nor relieves the Contractor of the requirements of Government Code, Part 3, Chapters 1 and 2 and Title 1, Division 3.6, Chapters 1, 2, 3, and 4, or

Public Contract Code Section 20104.2(e).

## **9-22 ASSIGNMENT OF CLAIMS**

The Contractor shall not assign any portion of the moneys due the Contractor without written City approval. No person other than the party signing the Contract has any claim under the Contract, except as provided in the Contract.